76-10-101. Definitions.

As used in this part:

(1) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette as described in Subsection (2).

(2) "Cigarette" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

(3) "Electronic cigarette" means any device, other than a cigarette or cigar, intended to deliver vapor containing nicotine into a person's respiratory system.

(4) "Place of business" includes:

(a) a shop;

(b) a store;

(c) a factory;

(d) a public garage;

(e) an office;

(f) a theater;

(g) a recreation hall;

(h) a dance hall;

(i) a poolroom;

(j) a café;

(k) a cafeteria;

(l) a cabaret;

(m) a restaurant;

(n) a hotel;

(o) a lodging house;

(p) a streetcar;

(q) a bus;

(r) an interurban or railway passenger coach;

(s) a waiting room; and

(t) any other place of business.

(5) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

Amended by Chapter 114, 2010 General Session

76-10-102. Cigarettes and tobacco -- Advertising restrictions -- Warnings in smokeless tobacco advertisements.

(1) It is a class B misdemeanor for any person to display on any billboard,

streetcar sign, streetcar, bus, placard, or on any other object or place of display, any advertisement of cigarettes, cigarette papers, cigars, chewing tobacco, or smoking tobacco or any disguise or substitute of either, except that a dealer in cigarettes, cigarette papers, tobacco or cigars, or their substitutes, may have a sign on the front of his place of business stating that he is a dealer in the articles; provided that nothing herein shall be construed to prohibit the advertising of cigarettes, cigarette papers, chewing tobacco or smoking tobacco, or any substitute of either, in any newspaper, magazine or periodical printed or circulating in this state.

(2) Any advertisement for smokeless tobacco placed in a newspaper, magazine, or periodical published in this state must bear a warning which states: "Use of smokeless tobacco may cause oral cancer and other mouth disorders and is addictive." This warning must be in a conspicuous location and in conspicuous and legible type, in contrast with the typography, layout, and color of all other printed material in the advertisement. For purposes of this subsection, "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity or nasal passage. In the event the United States Congress passes legislation which requires warnings in advertisements of smokeless tobacco, the specific language required to be placed in advertisements by that legislation shall take precedence over this subsection.

Amended by Chapter 66, 1986 General Session

76-10-103. Permitting minors to use tobacco in place of business.

It is a class C misdemeanor for the proprietor of any place of business to knowingly permit persons under age 19 to frequent a place of business while they are using tobacco.

Enacted by Chapter 196, 1973 General Session

76-10-104. Providing a cigar, cigarette, electronic cigarette, or tobacco to a minor -- Penalties.

(1) Any person who knowingly, intentionally, recklessly, or with criminal negligence provides any cigar, cigarette, electronic cigarette, or tobacco in any form, to any person under 19 years of age, is guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent offenses.

(2) For purposes of this section "provides":

(a) includes selling, giving, furnishing, sending, or causing to be sent; and

(b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.

Amended by Chapter 114, 2010 General Session

76-10-104.1. Providing tobacco paraphernalia to minors -- Penalties.

(1) For purposes of this section:

(a) "Provides":

(i) includes selling, giving, furnishing, sending, or causing to be sent; and

(ii) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.

(b) "Tobacco paraphernalia":

(i) means any equipment, product, or material of any kind which is used, intended for use, or designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body, including:

(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(B) water pipes;

(C) carburetion tubes and devices;

(D) smoking and carburetion masks;

(E) roach clips: meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;

(F) chamber pipes;

(G) carburetor pipes;

(H) electric pipes;

(I) air-driven pipes;

(J) chillums;

(K) bongs; and

(L) ice pipes or chillers; and

(ii) does not include matches or lighters.

(2) (a) It is unlawful for a person to knowingly, intentionally, recklessly, or with criminal negligence provide any tobacco paraphernalia to any person under 19 years of age.

(b) A person who violates this section is guilty of a class C misdemeanor on the first offense and a class B misdemeanor on subsequent offenses.

Amended by Chapter 278, 2013 General Session

76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.

(1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of a class C misdemeanor and subject to:

(a) a minimum fine or penalty of $60; and

(b) participation in a court-approved tobacco education program, which may

include a participation fee.

(2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject to the jurisdiction of the Juvenile Court and:

(a) a minimum fine or penalty of $60; and

(b) participation in a court-approved tobacco education program, which may include a participation fee.

(3) A compliance officer appointed by a board of education under Section 53A-3-402 may issue citations for violations of this section committed on school property. Cited violations shall be reported to the appropriate juvenile court.

Amended by Chapter 114, 2010 General Session

76-10-105.1. Requirement of direct, face-to-face sale of tobacco products and electronic cigarettes -- Supremacy clause -- Penalties.

(1) As used in this section:

(a) "Cigarette tobacco" means a product that consists of loose tobacco that contains or delivers nicotine and is intended for use by a consumer in a cigarette.

(b) "Pipe tobacco" means a product that consists of loose tobacco that contains or delivers nicotine and is intended to be smoked by a consumer in a pipe.

(c) "Retailer" means a person who sells cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco to individuals for personal consumption or who operates a facility where a vending machine or a self-service display is permitted under Subsection (3)(b).

(d) "Self-service display" means a display of cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco products to which the public has access without the intervention of a retail employee.

(e) "Smokeless tobacco" means a product that consists of cut, ground, powdered, or leaf tobacco that contains nicotine and that is intended to be placed in the oral cavity.

(2) (a) Except as provided in Subsection (3), a retailer may sell cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, and smokeless tobacco only in a direct, face-to-face exchange between:

(i) an employee of the retailer; and

(ii) the purchaser.

(b) Examples of methods that are not permitted include vending machines and self-service displays.

(c) Subsections (2)(a) and (b) do not prohibit the use or display of locked cabinets containing cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco if the locked cabinets are accessible only to the retailer or the retailer's employees.

(3) The following sales are permitted as exceptions to Subsection (2):

(a) mail-order sales, if the provisions of Section 59-14-509 are met;

(b) sales from vending machines, including vending machines that sell packaged, single cigarettes or cigars, and self-service displays that are located in a

separate and defined area within a facility where the retailer ensures that no person younger than 19 years of age is present, or permitted to enter, at any time, unless accompanied by a parent or legal guardian; and

(c) sales by a retailer from a retail store which derives at least 80% of its revenue from tobacco and tobacco related products and where the retailer ensures that no person younger than 19 years of age is present, or permitted to enter at any time, unless accompanied by a parent or legal guardian.

(4) Any ordinance, regulation, or rule adopted by the governing body of a political subdivision of the state or by a state agency that affects the sale, placement, or display of cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco that is not essentially identical to the provisions of this section and Section 76-10-102 is superseded.

(5) (a) A parent or legal guardian who accompanies a person younger than 19 years of age into an area described in Subsection (3)(b) or into a retail store as described in Subsection (3)(c) and permits the person younger than 19 years of age to purchase or otherwise take a cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of providing tobacco as provided for in Section 76-10-104 and the penalties provided for in that section.

(b) Nothing in this section may be construed as permitting a person to provide tobacco to a minor in violation of Section 76-10-104.

(6) Violation of Subsection (2) or (3) is a:

(a) class C misdemeanor on the first offense;

(b) class B misdemeanor on the second offense; and

(c) class A misdemeanor on the third and all subsequent offenses.

Amended by Chapter 114, 2010 General Session

76-10-105.3. Prohibition of sale or gift of clove cigarettes.

It is unlawful for any person to knowingly sell, offer for sale, give or furnish any clove cigarette in this state. For purposes of this section "clove cigarette" means any cigarette which contains more than 10%, by weight, of raw eugenia caryophyllata or caryophyllus, commonly known as clove. Any person who violates this section is guilty of a class B misdemeanor.

Enacted by Chapter 188, 1986 General Session

76-10-107. Abuse of psychotoxic chemical solvents.

(1) A person is guilty of abuse of psychotoxic chemical solvents if:

(a) for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of his brain or nervous system, he intentionally:

(i) smells or inhales the fumes of any psychotoxic chemical solvent; or

(ii) possesses, purchases, or attempts to possess or purchase any psychotoxic chemical solvent; or

(b) the person offers, sells, or provides a psychotoxic chemical solvent to another person, knowing that other person or a third party intends to possess or use

that psychotoxic chemical solvent in violation of Subsection (1)(a).

(2) This section does not apply to the prescribed use, distribution, or sale of those substances for medical or dental purposes.

(3) Abuse of psychotoxic chemical solvents is a class B misdemeanor.

(4) As used in this section, psychotoxic chemical solvent includes any glue, cement, or other substance containing one or more of the following chemical compounds: acetone and acetate, amyl nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite, butyl nitrate, or their isomers, ethyl alcohol, ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol, methyl alcohol, methyl ethyl ketone, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl nitrite or propyl nitrate or their isomers, toluene or xylene, or other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance. Nothing in this section shall be construed to include any controlled substance regulated by the provisions of Title 58, Chapter 37, Utah Controlled Substances Act.

Amended by Chapter 23, 2002 General Session

76-10-107.5. Abuse of nitrous oxide -- Penalty.

(1) As used in this section, "nitrous oxide" means:

(a) N_2O, a colorless gas or liquid that is also referred to as dinitrogen monoxide, nitrogen oxide, or laughing gas; and

(b) any substance containing nitrous oxide.

(2) A person is guilty of abuse of nitrous oxide who:

(a) possesses nitrous oxide with the intent to breathe, inhale, or ingest it for the purpose of:

(i) causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses;

(ii) in any manner changing, distorting, or disturbing the audio, visual, or mental processes;

(b) knowingly and intentionally is under the influence of nitrous oxide; or

(c) offers, sells, or provides nitrous oxide to another person, knowing that other person or a third party intends to possess or use the nitrous oxide in violation of Subsection (2)(a) or (b).

(3) Subsection (2)(b) does not apply to any person who is under the influence of nitrous oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person holding a license under state law that authorizes the administration of nitrous oxide.

(4) Subsection (2)(c) does not apply to any person who administers nitrous oxide for the purpose of medical, surgical, or dental care and who holds a license under state law that authorizes the administration of nitrous oxide.

(5) A violation of this section is a class A misdemeanor.

Enacted by Chapter 23, 2002 General Session

76-10-111. Prohibition of gift or free distribution of smokeless tobacco or electronic cigarettes -- Exceptions.

(1) The Legislature finds that:

(a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who use those products because research indicates that they may cause mouth or oral cancers;

(b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;

(c) the use of electronic cigarettes may lead to unhealthy behavior such as the use of tobacco products; and

(d) it is necessary to restrict the gift of the products described in this Subsection (1) in the interest of the health of the citizens of this state.

(2) Except as provided in Subsection (3), it is unlawful for a manufacturer, wholesaler, and retailer to give or distribute without charge any smokeless tobacco, chewing tobacco, or electronic cigarette in this state. Any person who violates this section is guilty of a class C misdemeanor for the first offense, and is guilty of a class B misdemeanor for any subsequent offense.

(3) (a) Smokeless tobacco, chewing tobacco, or an electronic cigarette may be distributed to adults without charge at professional conventions where the general public is excluded.

(b) Subsection (2) does not apply to a retailer, manufacturer, or distributor who gives smokeless tobacco, chewing tobacco, or an electronic cigarette to a person of legal age upon the person's purchase of another tobacco product or electronic cigarette.

Amended by Chapter 114, 2010 General Session

76-10-112. Prohibition of distribution of cigarettes or other tobacco products -- Exceptions.

(1) Except as provided in Subsection (2), it is unlawful for a manufacturer, wholesaler, or retailer to give or distribute cigarettes or other tobacco products in this state without charge. Any person who violates this subsection is guilty of a class C misdemeanor for the first offense and a class B misdemeanor for any subsequent offense.

(2) Cigarettes and other tobacco products may be distributed to adults without charge at professional conventions where the general public is excluded.

(3) The prohibition described in Subsection (1) does not apply to retailers, manufacturers, or distributors who give cigarettes or other tobacco products to persons of legal age upon their purchase of cigarettes or other tobacco products.

Enacted by Chapter 193, 1989 General Session

76-10-201. Interference with water flow.

Every person who knowingly or intentionally interferes with or alters the flow of water in any stream, ditch, or lateral while under the control or management of any

water commissioner is guilty of a crime punishable under Section 73-2-27.

Amended by Chapter 215, 2005 General Session

76-10-202. Taking water out of turn or excess amount -- Damaging facilities.

(1) No person may, in violation of any right of any other person knowingly or intentionally:

(a) turn or use the water, or any part thereof, of any canal, ditch, pipeline, or reservoir, except at a time when the use of the water has been duly distributed to the person;

(b) use any greater quantity of the water than has been duly distributed to him;

(c) in any way change the flow of water when lawfully distributed for irrigation or other useful purposes, except when duly authorized to make the change; or

(d) break or injure any dam, canal, pipeline, watergate, ditch, or other means of diverting or conveying water for irrigation or other useful purposes.

(2) Subsection (1) applies to violations of any right to the use of water, including:

(a) a water right; or

(b) authorization of a person's use of water by:

(i) a water company, as defined in Subsection 73-3-3.5(1)(b); or

(ii) an entity having a valid water right under Utah law.

(3) Any person who violates this section is guilty of a crime punishable under Section 73-2-27.

Amended by Chapter 215, 2005 General Session

76-10-203. Obstruction of watergates.

Every person who rafts or floats logs, timber, or wood down any river or stream and allows the logs, timber, or wood to accumulate at or obstruct the watergates owned by any person or irrigation company taking or diverting the water of the river or stream for irrigation or manufacturing purposes is guilty of a crime punishable under Section 73-2-27.

Amended by Chapter 215, 2005 General Session

76-10-204. Damaging bridge, dam, canal or other water-related structure.

(1) A person is guilty of a third degree felony who intentionally, knowingly, or recklessly commits an offense under Subsection (2) that does not amount to a violation of Subsection 76-6-106(2)(b)(ii).

(2) Offenses referred to in Subsection (1) are when a person:

(a) cuts, breaks, damages, or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, to drain or reclaim any swamp and overflowed or marsh land, to conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the

inhabitants of any city or town;

(b) makes or causes to be made any aperture in any dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure with intent to injure or destroy it; or

(c) draws up, cuts, or injures any piles fixed in the ground and used for securing any lake or river bank or walls or any dock, quay, jetty, or lock.

Amended by Chapter 166, 2002 General Session

76-10-302. Marking of containers of explosives before transportation or storage.

Every person who knowingly leaves with or delivers to another, or to any express or railway company or other common carrier, or to any warehouse or storehouse, any package containing nitroglycerin, dynamite, guncotton, gunpowder, or other highly explosive compound, or any benzine, gasoline, phosphorus, or other highly inflammable substance, or any vitriol, sulphuric, nitric, carbolic, muriatic, or other dangerous acid, chemical or compound, to be handled, stored, shipped, or transported, without plainly marking and indicating on such package the name and nature of the contents thereof, is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-303. Powder houses.

Every person who builds, constructs, or uses within 300 feet of any residence or traveled county road any powder house, magazine, or building in which powder, dynamite, or other explosive is kept in quantities exceeding 500 pounds is guilty of a class B misdemeanor; provided that this section shall not apply to any magazine maintained at any mine or stone quarry.

Enacted by Chapter 196, 1973 General Session

76-10-304. Marking of containers of explosives held for sale or use.

It shall be a class A misdemeanor to sell or offer for sale or take or solicit orders of sale, or purchase or use, or have on hand or in store for the purpose of sale or use, any giant, hercules, atlas, venture or any other high explosive containing nitroglycerin, unless on each box or package and wrapper containing any such high explosive there shall be plainly stamped or printed the name and place of business of the person, partnership, or corporation by whom or by which it was manufactured, and the exact and true date of its manufacture, and the percentage of nitroglycerin or other high explosive contained therein.

Enacted by Chapter 196, 1973 General Session

76-10-305. Different dates on containers of explosives prohibited -- Reuse of containers prohibited.

It shall be unlawful for any person or persons, partnership, or corporation to have two or more different dates on any box or package containing giant, hercules, atlas, or venture, or any other high explosive containing nitroglycerin. It shall further be unlawful to use any box, package, or wrapper formerly used by any other person or persons, partnership, or corporation in the packing of such giant, hercules, atlas, venture, or other high explosive containing nitroglycerin, and the name and date on the box or package shall be the same as on the wrapper containing the giant, hercules, atlas, venture, or other explosive containing nitroglycerin.

Enacted by Chapter 196, 1973 General Session

76-10-306. Explosive, chemical, or incendiary device and parts -- Definitions -- Persons exempted -- Penalties.

(1) As used in this section:

(a) "Explosive, chemical, or incendiary device" means:

(i) dynamite and all other forms of high explosives, including water gel, slurry, military C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin mixtures, or any other chemical mixture intended to explode with fire or force;

(ii) any explosive bomb, grenade, missile, or similar device; and

(iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device, including any device, except kerosene lamps, if criminal intent has not been established, which consists of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting the flammable liquid or compound or any breakable container which consists of, or includes a chemical mixture that explodes with fire or force and can be carried, thrown, or placed.

(b) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.

(c) "Explosive, chemical, or incendiary parts" means any substances or materials or combinations which have been prepared or altered for use in the creation of an explosive, chemical, or incendiary device. These substances or materials include:

(i) timing device, clock, or watch which has been altered in such a manner as to be used as the arming device in an explosive;

(ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and

(iii) mechanical timers, mechanical triggers, chemical time delays, electronic time delays, or commercially made or improvised items which, when used singly or in combination, may be used in the construction of a timing delay mechanism, booby trap, or activating mechanism for any explosive, chemical, or incendiary device.

(d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or

shotgun ammunition, or any signaling device customarily used in operation of railroad equipment.

(2) The provisions in Subsections (3) and (6) do not apply to:

(a) any public safety officer while acting in an official capacity transporting or otherwise handling explosives, chemical, or incendiary devices;

(b) any member of the armed forces of the United States or Utah National Guard while acting in an official capacity;

(c) any person possessing a valid permit issued under the provisions of Uniform Fire Code, Article 77, or any employee of the permittee acting within the scope of employment;

(d) any person possessing a valid license as an importer, wholesaler, display operator, special effects operator, or flame effects operator under the provisions of Sections 11-3-3.5 and 53-7-223; and

(e) any person or entity possessing or controlling an explosive, chemical, or incendiary device as part of its lawful business operations.

(3) Any person is guilty of a second degree felony who, under circumstances not amounting to a violation of Title 76, Chapter 10, Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses or controls an explosive, chemical, or incendiary device.

(4) Any person is guilty of a first degree felony who, under circumstances not amounting to a violation of Title 76, Chapter 10, Part 4, Weapons of Mass Destruction, knowingly or intentionally:

(a) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an attempt to commit a felony;

(b) injures another or attempts to injure another person or another person's property through the use of an explosive, chemical, or incendiary device; or

(c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-10-529, or 78A-2-203.

(5) Any person who, under circumstances not amounting to a violation of Title 76, Chapter 10, Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly removes or causes to be removed or carries away any explosive, chemical, or incendiary device from the premises where the explosive, chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer without the consent or direction of the lawful possessor is guilty of a second degree felony.

(6) Any person who, under circumstances not amounting to a violation of Title 76, Chapter 10, Part 4,Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses any explosive, chemical, or incendiary parts is guilty of a third degree felony.

Amended by Chapter 61, 2010 General Session

76-10-307. Explosive, chemical, or incendiary device -- Delivery to common carrier or mailing.

Any person is guilty of a felony of the second degree who delivers or causes to

be delivered to any express or railway company or other common carrier, or to any person, any explosive, chemical, or incendiary device, knowing it to be the device, without informing the common carrier or person of its nature or sends it through the mail.

Amended by Chapter 97, 1999 General Session

76-10-308. Explosive, chemical, or incendiary device -- Venue of prosecution for shipping.

Any person who knowingly, intentionally, or recklessly delivers any explosive, chemical, or incendiary device to any person for transmission without the consent or direction of the lawful possessor may be prosecuted in the county in which he delivers it or in the county to which it is transmitted.

Repealed and Re-enacted by Chapter 75, 1993 General Session

76-10-401. Definitions.

As used in this part:

(1) "Biological agent" means any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance, or biological product, that is capable of causing:

(a) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(b) deterioration of food, water, equipment, supplies, or material of any kind; or

(c) deleterious alteration of the environment.

(2) "Delivery system" means:

(a) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

(b) any vector.

(3) "Hoax weapon of mass destruction" means any device or object that by its design, construction, content, or characteristics appears to be or to contain, or is represented to be, constitute, or contain, a weapon of mass destruction as defined in this section, but which is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction which does not:

(a) meet the definition of a weapon of mass destruction; or

(b) actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system prohibited by this section.

(4) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

(a) any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or

(b) any poisonous isomer or biological product, homolog, or derivative of the substance under Subsection (4)(a).

(5) "Vector" means a living organism, or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.

(6) (a) "Weapon of mass destruction" means:

(i) any item or instrumentality that is designed or intended to cause widespread death or serious bodily injury to multiple victims;

(ii) any item or instrumentality that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

(iii) any disease organism, including any biological agent, toxin, or vector which is used or intended to be used as a weapon;

(iv) any item or instrumentality that is designed to release radiation or radioactivity at a level dangerous to human life and that is used or intended to be used as a weapon; or

(v) any substance or material or combination which has been prepared or altered for use in the creation of a weapon described in Subsections (6)(a)(i) through (iv).

(b) "Weapon of mass destruction" does not include firearms or rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.

Repealed and Re-enacted by Chapter 166, 2002 General Session

76-10-402. Manufacture, possession, sale, use, or attempted use of a weapon of mass destruction prohibited -- Penalties.

A person who without lawful authority intentionally or knowingly manufactures, possesses, sells, delivers, displays, uses, attempts to use, solicits the use of, or conspires to use a weapon of mass destruction or a delivery system for a weapon of mass destruction, including any biological agent, toxin, vector, or delivery system as those terms are defined in this section, is guilty of a first degree felony.

Enacted by Chapter 166, 2002 General Session

76-10-403. Manufacture, possession, sale, use, or attempted use of a hoax weapon of mass destruction prohibited -- Penalty.

Any person who without lawful authority intentionally or knowingly manufactures, possesses, sells, delivers, displays, uses, attempts to use, solicits the use of, or conspires to use a hoax weapon of mass destruction with the intent to deceive or otherwise mislead another person into believing that the hoax weapon of mass destruction is a weapon of mass destruction is guilty of a second degree felony.

Enacted by Chapter 166, 2002 General Session

76-10-404. Exemptions.

This part does not apply to any member or employee of the Armed Forces of the United States, allied armed forces personnel, a federal or state governmental agency,

or a private entity, who is engaged in lawful activity within the scope of his or her employment, if the person is authorized or licensed to manufacture, possess, sell, deliver, display, or otherwise engage in activity relative to this section and if the person is in compliance with applicable federal and state law.

Enacted by Chapter 166, 2002 General Session

76-10-405. Reimbursement of government response expenses.

In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this part to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

Enacted by Chapter 166, 2002 General Session

76-10-500. Uniform law.

(1) The individual right to keep and bear arms being a constitutionally protected right, the Legislature finds the need to provide uniform laws throughout the state. Except as specifically provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:

(a) prohibited from owning, possessing, purchasing, selling, transferring, transporting, or keeping any firearm at his place of residence, property, business, or in any vehicle lawfully in his possession or lawfully under his control; or

(b) required to have a permit or license to purchase, own, possess, transport, or keep a firearm.

(2) This part is uniformly applicable throughout this state and in all its political subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state except where the Legislature specifically delegates responsibility to local authorities or state entities. Unless specifically authorized by the Legislature by statute, a local authority or state entity may not enact or enforce any ordinance, regulation, or rule pertaining to firearms.

Enacted by Chapter 5, 1999 General Session

76-10-501. Definitions.

As used in this part:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; or

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(3) (a) "Concealed dangerous weapon" means a dangerous weapon that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and

(ii) readily accessible for immediate use.

(b) A dangerous weapon is not a concealed dangerous weapon if it is a firearm which is unloaded and is securely encased.

(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.

(5) "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

(b) (i) was manufactured at least 50 years before the current date; and

(ii) is not a replica of a firearm described in Subsection (5)(b)(i);

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of its monetary value:

(i) from the fact that the firearm is:

(A) novel;

(B) rare; or

(C) bizarre; or

(ii) because of the firearm's association with an historical:

(A) figure;

(B) period; or

(C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

(6) (a) "Dangerous weapon" means:

(i) a firearm; or

(ii) an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

(i) the location and circumstances in which the object was used or possessed;

(ii) the primary purpose for which the object was made;

(iii) the character of the wound, if any, produced by the object's unlawful use;

(iv) the manner in which the object was unlawfully used;

(v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(vi) the lawful purposes for which the object may be used.

(d) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section 76-10-306.

(7) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(8) "Enter" means intrusion of the entire body.

(9) "Federal Firearms Licensee" means a person who:

(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

(b) is engaged in the activities authorized by the specific category of license held.

(10) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.

(11) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

(12) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

(13) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.

(14) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

(15) "Prohibited area" means a place where it is unlawful to discharge a firearm.

(16) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

(17) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

(18) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

(19) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(20) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(21) "Violent felony" has the same meaning as defined in Section 76-3-203.5.

Amended by Chapter 428, 2014 General Session

76-10-502. When weapon deemed loaded.

(1) For the purpose of this chapter, any pistol, revolver, shotgun, rifle, or other weapon described in this part shall be deemed to be loaded when there is an unexpended cartridge, shell, or projectile in the firing position.

(2) Pistols and revolvers shall also be deemed to be loaded when an unexpended cartridge, shell, or projectile is in a position whereby the manual operation of any mechanism once would cause the unexpended cartridge, shell, or projectile to be fired.

(3) A muzzle loading firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinders.

Amended by Chapter 328, 1990 General Session

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of any violent felony as defined in Section 76-3-203.5;

(ii) is on probation or parole for any felony;

(iii) is on parole from a secure facility as defined in Section 62A-7-101;

(iv) within the last 10 years has been adjudicated delinquent for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5; or

(v) is an alien who is illegally or unlawfully in the United States.

(b) A Category II restricted person is a person who:

(i) has been convicted of any felony;

(ii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(iv) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

(v) has been found not guilty by reason of insanity for a felony offense;

(vi) has been found mentally incompetent to stand trial for a felony offense;

(vii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(viii) has been dishonorably discharged from the armed forces; or

(ix) has renounced his citizenship after having been a citizen of the United States.

(c) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

(i) a conviction or adjudication of delinquency for an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

(ii) a conviction or adjudication of delinquency which, according to the law of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(d) It is the burden of the defendant in a criminal case to provide evidence that a conviction or adjudication of delinquency is subject to an exception provided in Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or adjudication of delinquency is not subject to that exception.

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a second degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a third degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon, the penalties of that section control.

(6) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(iv) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section 24-3-103;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or dangerous weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (8)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

(9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous

weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person any information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (9) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

Amended by Chapter 299, 2014 General Session
Amended by Chapter 428, 2014 General Session

76-10-504. Carrying concealed dangerous weapon -- Penalties.

(1) Except as provided in Section 76-10-503 and in Subsections (2), (3), and (4), a person who carries a concealed dangerous weapon, as defined in Section 76-10-501, including an unloaded firearm on his or her person or one that is readily accessible for immediate use which is not securely encased, as defined in this part, in or on a place other than the person's residence, property, a vehicle in the person's lawful possession, or a vehicle, with the consent of the individual who is lawfully in possession of the vehicle, or business under the person's control is guilty of a class B misdemeanor.

(2) A person who carries a concealed dangerous weapon which is a loaded firearm in violation of Subsection (1) is guilty of a class A misdemeanor.

(3) A person who carries concealed an unlawfully possessed short barreled shotgun or a short barreled rifle is guilty of a second degree felony.

(4) If the concealed firearm is used in the commission of a violent felony as defined in Section 76-3-203.5, and the person is a party to the offense, the person is guilty of a second degree felony.

(5) Nothing in Subsection (1) or (2) shall prohibit a person engaged in the lawful taking of protected or unprotected wildlife as defined in Title 23, Wildlife Resources Code of Utah, from carrying a concealed weapon or a concealed firearm as long as the taking of wildlife does not occur:

(a) within the limits of a municipality in violation of that municipality's ordinances; or

(b) upon the highways of the state as defined in Section 41-6a-102.

Amended by Chapter 301, 2013 General Session

76-10-505. Carrying loaded firearm in vehicle or on street.

(1) Unless otherwise authorized by law, a person may not carry a loaded firearm:

(a) in or on a vehicle, unless:

(i) the vehicle is in the person's lawful possession; or

(ii) the person is carrying the loaded firearm in a vehicle with the consent of the person lawfully in possession of the vehicle;

(b) on a public street; or

(c) in a posted prohibited area.

(2) Subsection (1)(a) does not apply to a minor under 18 years of age, since a minor under 18 years of age may not carry a loaded firearm in or on a vehicle.

(3) Notwithstanding Subsection (1)(a)(i) and (ii), a person may not possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle.

(4) A violation of this section is a class B misdemeanor.

Amended by Chapter 362, 2009 General Session

76-10-505.5. Possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises -- Penalties.

(1) As used in this section, "on or about school premises" means:

(a) (i) in a public or private elementary or secondary school; or

(ii) on the grounds of any of those schools;

(b) (i) in a public or private institution of higher education; or

(ii) on the grounds of a public or private institution of higher education; and

(iii) (A) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or

(B) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool or child care operation is being held.

(2) A person may not possess any dangerous weapon, firearm, or short barreled shotgun, as those terms are defined in Section 76-10-501, at a place that the person knows, or has reasonable cause to believe, is on or about school premises as defined in this section.

(3) (a) Possession of a dangerous weapon on or about school premises is a class B misdemeanor.

(b) Possession of a firearm or short barreled shotgun on or about school premises is a class A misdemeanor.

(4) This section does not apply if:

(a) the person is authorized to possess a firearm as provided under Section 53-5-704, 53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law;

(b) the possession is approved by the responsible school administrator;

(c) the item is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the person responsible for its possession or use; or

(d) the possession is:

(i) at the person's place of residence or on the person's property; or

(ii) in any vehicle lawfully under the person's control, other than a vehicle owned by the school or used by the school to transport students.

(5) This section does not prohibit prosecution of a more serious weapons offense that may occur on or about school premises.

Amended by Chapter 301, 2013 General Session

76-10-506. Threatening with or using dangerous weapon in fight or quarrel.

(1) As used in this section:

(a) "Dangerous weapon" means an item that in the manner of its use or intended use is capable of causing death or serious bodily injury. The following factors shall be used in determining whether an item, object, or thing is a dangerous weapon:

(i) the character of the instrument, object, or thing;

(ii) the character of the wound produced, if any; and

(iii) the manner in which the instrument, object, or thing was exhibited or used.

(b) "Threatening manner" does not include:

(i) the possession of a dangerous weapon, whether visible or concealed, without additional behavior which is threatening; or

(ii) informing another of the actor's possession of a deadly weapon in order to prevent what the actor reasonably perceives as a possible use of unlawful force by the other and the actor is not engaged in any activity described in Subsection 76-2-402(2)(a).

(2) Except as otherwise provided in Section 76-2-402 and for those persons described in Section 76-10-503, a person who, in the presence of two or more persons, and not amounting to a violation of Section 76-5-103, draws or exhibits a dangerous weapon in an angry and threatening manner or unlawfully uses a dangerous weapon in a fight or quarrel is guilty of a class A misdemeanor.

(3) This section does not apply to a person who, reasonably believing the action to be necessary in compliance with Section 76-2-402, with purpose to prevent another's use of unlawful force:

(a) threatens the use of a dangerous weapon; or

(b) draws or exhibits a dangerous weapon.

(4) This section does not apply to a person listed in Subsections 76-10-523(1)(a) through (e) in performance of the person's duties.

Amended by Chapter 248, 2014 General Session

76-10-507. Possession of deadly weapon with intent to assault.

Every person having upon his person any dangerous weapon with intent to unlawfully assault another is guilty of a class A misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of any person, building, or vehicle -- Penalties.

(1) (a) A person may not discharge any kind of dangerous weapon or firearm:

(i) from an automobile or other vehicle;

(ii) from, upon, or across any highway;

(iii) at any road signs placed upon any highways of the state;

(iv) at any communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;

(v) at railroad equipment or facilities including any sign or signal;

(vi) within Utah State Park buildings, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or

(vii) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:

(A) a house, dwelling, or any other building; or

(B) any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

(b) It is a defense to any charge for violating this section that the person being accused had actual permission of the owner or person in charge of the property at the time in question.

(2) A violation of any provision of Subsection (1) is a class B misdemeanor.

(3) In addition to any other penalties, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(4) This section does not apply to a person who:

(a) discharges any kind of firearm when that person is in lawful defense of self or others;

(b) is performing official duties as provided in Section 23-20-1.5 and Subsections 76-10-523(1)(a) through (e) and as otherwise provided by law; or

(c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (4)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground prior to the discharge; and

(v) the discharge is not made in violation of Subsection (1).

Amended by Chapter 248, 2014 General Session

76-10-508.1. Felony discharge of a firearm -- Penalties.

(1) Except as provided under Subsection (2) or (3), a person who discharges a firearm is guilty of a third degree felony punishable by imprisonment for a term of not less than three years nor more than five years if:

(a) the actor discharges a firearm in the direction of any person or persons,

knowing or having reason to believe that any person may be endangered by the discharge of the firearm;

(b) the actor, with intent to intimidate or harass another or with intent to damage a habitable structure as defined in Section 76-6-101, discharges a firearm in the direction of any person or habitable structure; or

(c) the actor, with intent to intimidate or harass another, discharges a firearm in the direction of any vehicle.

(2) A violation of Subsection (1) which causes bodily injury to any person is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.

(3) A violation of Subsection (1) which causes serious bodily injury to any person is a first degree felony.

(4) In addition to any other penalties for a violation of this section, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(5) This section does not apply to a person:

(a) who discharges any kind of firearm when that person is in lawful defense of self or others;

(b) who is performing official duties as provided in Section 23-20-1.5 or Subsections 76-10-523(1)(a) through (e) or as otherwise authorized by law; or

(c) who discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (5)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground prior to the discharge; and

(v) the discharge is not made in violation of Subsection (1).

Amended by Chapter 248, 2014 General Session

76-10-509. Possession of dangerous weapon by minor.

(1) A minor under 18 years of age may not possess a dangerous weapon unless he:

(a) has the permission of his parent or guardian to have the weapon; or

(b) is accompanied by a parent or guardian while he has the weapon in his possession.

(2) Any minor under 14 years of age in possession of a dangerous weapon shall

be accompanied by a responsible adult.

(3) Any person who violates this section is guilty of:

(a) a class B misdemeanor upon the first offense; and

(b) a class A misdemeanor for each subsequent offense.

Amended by Chapter 10, 1993 Special Session 2

76-10-509.4. Prohibition of possession of certain weapons by minors.

(1) A minor under 18 years of age may not possess a handgun.

(2) Except as provided by federal law, a minor under 18 years of age may not possess the following:

(a) a short barreled rifle or short barreled shotgun; or

(b) a fully automatic weapon.

(3) Any person who violates Subsection (1) is guilty of:

(a) a class B misdemeanor upon the first offense; and

(b) a class A misdemeanor for each subsequent offense.

(4) Any person who violates Subsection (2) is guilty of a third degree felony.

Amended by Chapter 301, 2013 General Session

76-10-509.5. Penalties for providing certain weapons to a minor.

(1) Any person who provides a handgun to a minor when the possession of the handgun by the minor is a violation of Section 76-10-509.4 is guilty of:

(a) a class B misdemeanor upon the first offense; and

(b) a class A misdemeanor for each subsequent offense.

(2) Any person who transfers in violation of applicable state or federal law a short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor is guilty of a third degree felony.

Amended by Chapter 301, 2013 General Session

76-10-509.6. Parent or guardian providing firearm to violent minor.

(1) A parent or guardian may not intentionally or knowingly provide a firearm to, or permit the possession of a firearm by, any minor who has been convicted of a violent felony as defined in Section 76-3-203.5 or any minor who has been adjudicated in juvenile court for an offense which would constitute a violent felony if the minor were an adult.

(2) Any person who violates this section is guilty of:

(a) a class A misdemeanor upon the first offense; and

(b) a third degree felony for each subsequent offense.

Amended by Chapter 303, 2000 General Session

76-10-509.7. Parent or guardian knowing of minor's possession of dangerous weapon.

Any parent or guardian of a minor who knows that the minor is in possession of a dangerous weapon in violation of Section 76-10-509 or a firearm in violation of Section 76-10-509.4 and fails to make reasonable efforts to remove the dangerous weapon or firearm from the minor's possession is guilty of a class B misdemeanor.

Amended by Chapter 428, 2014 General Session

76-10-509.9. Sales of firearms to juveniles.

(1) A person may not sell any firearm to a minor under 18 years of age unless the minor is accompanied by a parent or guardian.

(2) Any person who violates this section is guilty of a third degree felony.

Enacted by Chapter 13, 1993 Special Session 2

76-10-511. Possession of loaded firearm at residence or on real property authorized.

Except for persons described in Section 76-10-503 and 18 U.S.C. Sec. 922(g) and as otherwise prescribed in this part, a person may have a loaded firearm:

(1) at the person's place of residence, including any temporary residence or camp; or

(2) on the person's real property.

Amended by Chapter 362, 2009 General Session

76-10-512. Target concessions, shooting ranges, competitions, and hunting excepted from prohibitions.

(1) The provisions of Section 76-10-509 and Subsection 76-10-509.4(1) regarding possession of handguns by minors do not apply to any of the following:

(a) patrons firing at lawfully operated target concessions at amusement parks, piers, and similar locations provided that the firearms to be used are firmly chained or affixed to the counters;

(b) any person in attendance at a hunter's safety course or a firearms safety course;

(c) any person engaging in practice or any other lawful use of a firearm at an established range or any other area where the discharge of a firearm is not prohibited by state or local law;

(d) any person engaging in an organized competition involving the use of a firearm, or participating in or practicing for such competition;

(e) any minor under 18 years of age who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of law;

(f) any resident or nonresident hunters with a valid hunting license or other persons who are lawfully engaged in hunting; or

(g) any person traveling to or from any activity described in Subsection (1)(b),

(c), (d), (e), or (f) with an unloaded firearm in the person's possession.

(2) It is not a violation of Subsection 76-10-503(2) or (3) for a restricted person defined in Subsection 76-10-503(1) to own, possess, or have under the person's custody or control, archery equipment, including crossbows, for the purpose of lawful hunting and lawful target shooting.

(3) Notwithstanding Subsection (2), the possession of archery equipment, including crossbows, by a restricted person defined in Subsection 76-10-503(1) may be prohibited by:

(a) a court, as a condition of pre-trial release or probation; or

(b) the Board of Pardons and Parole, as a condition of parole.

Amended by Chapter 428, 2014 General Session

76-10-520. Number or mark assigned to pistol or revolver by Department of Public Safety.

The Department of Public Safety upon request may assign a distinguishing number or mark of identification to any pistol or revolver whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the Department of Public Safety has been destroyed or obliterated.

Amended by Chapter 234, 1993 General Session

76-10-521. Unlawful marking of pistol or revolver.

(1) Any person who places or stamps on any pistol or revolver any number except one assigned to it by the Department of Public Safety is guilty of a class A misdemeanor.

(2) This section does not prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when the restoration is authorized by the Department of Public Safety, nor prevent any manufacturer from placing in the ordinary course of business the name of the make, model, manufacturer's number, or other mark of identification upon a new pistol or revolver.

Amended by Chapter 234, 1993 General Session

76-10-522. Alteration of number or mark on pistol or revolver.

Any person who changes, alters, removes, or obliterates the name of the maker, the model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Public Safety, on any pistol or revolver, without first having secured written permission from the Department of Public Safety to make the change, alteration, or removal, is guilty of a class A misdemeanor.

Amended by Chapter 234, 1993 General Session

76-10-523. Persons exempt from weapons laws.

(1) Except for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the following:

(a) a United States marshal;

(b) a federal official required to carry a firearm;

(c) a peace officer of this or any other jurisdiction;

(d) a law enforcement official as defined and qualified under Section 53-5-711;

(e) a judge as defined and qualified under Section 53-5-711; or

(f) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise.

(2) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to any person to whom a permit to carry a concealed firearm has been issued:

(a) pursuant to Section 53-5-704; or

(b) by another state or county.

(3) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in or though the state, provided that any firearm is:

(a) unloaded; and

(b) securely encased as defined in Section 76-10-501.

Amended by Chapter 248, 2014 General Session

76-10-523.5. Compliance with rules for secure facilities.

Any person, including a person licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed Weapons, shall comply with any rule established for secure facilities pursuant to Sections 53B-3-103, 76-8-311.1, 76-8-311.3, and 78A-2-203 and shall be subject to any penalty provided in those sections.

Amended by Chapter 3, 2008 General Session

76-10-524. Purchase of firearms pursuant to federal law.

This part will allow purchases of firearms and ammunition pursuant to U.S.C. Title 18 Chapter 44 Sec. 922b(3).

Amended by Chapter 360, 2004 General Session

76-10-526. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.

(2) (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection (2).

(3) (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

(4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.

(b) The form shall contain the following information:

(i) the dealer identification number;

(ii) the name and address of the individual receiving the firearm;

(iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and

(iv) the Social Security number or any other identification number of the individual receiving the firearm.

(5) (a) The dealer shall send the information required by Subsection (4) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection (4) and has received approval from the bureau under Subsection (7).

(6) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

(7) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

(8) (a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period

of 12 months.

(9) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction where the individual resides.

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) (i) A dealer shall collect a criminal history background check fee of $7.50 for the sale of a firearm under this section.

(ii) This fee remains in effect until changed by the bureau through the process under Section 63J-1-504.

(b) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

(13) An individual with a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

(b) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(14) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification. This section may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

(15) (a) A dealer may participate in the redeemable coupon program described in this Subsection (15) and Subsection 53-10-202(18).

(b) A participating dealer shall:

(i) accept the redeemable coupon only from the individual whose name is on the coupon and apply it only toward the purchase of a gun safe;

(ii) collect the receipts from the purchase of gun safes using the redeemable coupon and send them to the Bureau of Criminal Identification for redemption; and

(iii) make the firearm safety brochure described in Subsection 53-10-202(18) available to customers free of charge.

Amended by Chapter 226, 2014 General Session

76-10-527. Penalties.

(1) A dealer is guilty of a class A misdemeanor who willfully and intentionally:

(a) requests, obtains, or seeks to obtain criminal history background information under false pretenses;

(b) disseminates criminal history background information; or

(c) violates Section 76-10-526.

(2) A person who purchases or transfers a firearm is guilty of a felony of the third degree if the person willfully and intentionally makes a false statement of the information required for a criminal background check in Section 76-10-526.

(3) Except as otherwise provided in Subsection (1), a dealer is guilty of a felony of the third degree if the dealer willfully and intentionally sells or transfers a firearm in violation of this part.

(4) A person is guilty of a felony of the third degree if the person purchases a firearm with the intent to:

(a) resell or otherwise provide a firearm to a person who is ineligible to purchase or receive a firearm from a dealer; or

(b) transport a firearm out of this state to be resold to an ineligible person.

Amended by Chapter 20, 2009 General Session

76-10-528. Carrying a dangerous weapon while under influence of alcohol or drugs unlawful.

(1) Any person who carries a dangerous weapon while under the influence of alcohol or a controlled substance as defined in Section 58-37-2 is guilty of a class B misdemeanor. Under the influence means the same level of influence or blood or breath alcohol concentration as provided in Subsections 41-6a-502(1)(a) through(c).

(2) It is not a defense to prosecution under this section that the person:

(a) is licensed in the pursuit of wildlife of any kind; or

(b) has a valid permit to carry a concealed firearm.

Amended by Chapter 226, 2008 General Session

76-10-529. Possession of dangerous weapons, firearms, or explosives in airport secure areas prohibited -- Penalty.

(1) As used in this section:

(a) "Airport authority" has the same meaning as defined in Section 72-10-102.

(b) "Dangerous weapon" is the same as defined in Section 76-10-501.

(c) "Explosive" is the same as defined for "explosive, chemical, or incendiary device" in Section 76-10-306.

(d) "Firearm" is the same as defined in Section 76-10-501.

(2) (a) Within a secure area of an airport established pursuant to this section, a person, including a person licensed to carry a concealed firearm under Title 53,

Chapter 5, Part 7, Concealed Weapon Act, is guilty of:

(i) a class A misdemeanor if the person knowingly or intentionally possesses any dangerous weapon or firearm;

(ii) an infraction if the person recklessly or with criminal negligence possesses any dangerous weapon or firearm; or

(iii) a violation of Section 76-10-306 if the person transports, possesses, distributes, or sells any explosive, chemical, or incendiary device.

(b) Subsection (2)(a) does not apply to:

(i) persons exempted under Section 76-10-523; and

(ii) members of the state or federal military forces while engaged in the performance of their official duties.

(3) An airport authority, county, or municipality regulating the airport may:

(a) establish any secure area located beyond the main area where the public generally buys tickets, checks and retrieves luggage; and

(b) use reasonable means, including mechanical, electronic, x-ray, or any other device, to detect dangerous weapons, firearms, or explosives concealed in baggage or upon the person of any individual attempting to enter the secure area.

(4) At least one notice shall be prominently displayed at each entrance to a secure area in which a dangerous weapon, firearm, or explosive is restricted.

(5) Upon the discovery of any dangerous weapon, firearm, or explosive, the airport authority, county, or municipality, the employees, or other personnel administering the secure area may:

(a) require the individual to deliver the item to the air freight office or airline ticket counter;

(b) require the individual to exit the secure area; or

(c) obtain possession or retain custody of the item until it is transferred to law enforcement officers.

Amended by Chapter 169, 2004 General Session

76-10-530. Trespass with a firearm in a house of worship or private residence -- Notice -- Penalty.

(1) A person, including a person licensed to carry a concealed firearm pursuant to Title 53, Chapter 5, Part 7, Concealed Weapon Act, after notice has been given as provided in Subsection (2) that firearms are prohibited, may not knowingly and intentionally:

(a) transport a firearm into:

(i) a house of worship; or

(ii) a private residence; or

(b) while in possession of a firearm, enter or remain in:

(i) a house of worship; or

(ii) a private residence.

(2) Notice that firearms are prohibited may be given by:

(a) personal communication to the actor by:

(i) the church or organization operating the house of worship;

(ii) the owner, lessee, or person with lawful right of possession of the private residence; or

(iii) a person with authority to act for the person or entity in Subsections (2)(a)(i) and (ii);

(b) posting of signs reasonably likely to come to the attention of persons entering the house of worship or private residence;

(c) announcement, by a person with authority to act for the church or organization operating the house of worship, in a regular congregational meeting in the house of worship;

(d) publication in a bulletin, newsletter, worship program, or similar document generally circulated or available to the members of the congregation regularly meeting in the house of worship; or

(e) publication:

(i) in a newspaper of general circulation in the county in which the house of worship is located or the church or organization operating the house of worship has its principal office in this state; and

(ii) as required in Section 45-1-101.

(3) A church or organization operating a house of worship and giving notice that firearms are prohibited may:

(a) revoke the notice, with or without supersedure, by giving further notice in any manner provided in Subsection (2); and

(b) provide or allow exceptions to the prohibition as the church or organization considers advisable.

(4) (a) (i) Within 30 days of giving or revoking any notice pursuant to Subsection (2)(c), (d), or (e), a church or organization operating a house of worship shall notify the division on a form and in a manner as the division shall prescribe.

(ii) The division shall post on its website a list of the churches and organizations operating houses of worship who have given notice under Subsection (4)(a)(i).

(b) Any notice given pursuant to Subsection (2)(c), (d), or (e) shall remain in effect until revoked or for a period of one year from the date the notice was originally given, whichever occurs first.

(5) Nothing in this section permits an owner who has granted the lawful right of possession to a renter or lessee to restrict the renter or lessee from lawfully possessing a firearm in the residence.

(6) A violation of this section is an infraction.

Amended by Chapter 388, 2009 General Session

76-10-532. Removal from National Instant Check System database.

(1) A person who is subject to the restrictions in Subsection 76-10-503(1)(b)(v), (vi), or (vii), or 18 U.S.C. 922(d)(4) and (g)(4) based on a commitment, finding, or adjudication that occurred in this state may petition the district court in the county in which the commitment, finding, or adjudication occurred to remove the disability imposed.

(2) The petition shall be filed in the district court in the county where the

commitment, finding, or adjudication occurred. The petition shall include:

(a) a listing of facilities, with their addresses, where the petitioner has ever received mental health treatment;

(b) a release signed by the petitioner to allow the prosecutor or county attorney to obtain the petitioner's mental health records;

(c) a verified report of a mental health evaluation conducted by a licensed psychiatrist occurring within 30 days prior to the filing of the petition, which shall include a statement regarding:

(i) the nature of the commitment, finding, or adjudication that resulted in the restriction on the petitioner's ability to purchase or possess a dangerous weapon;

(ii) the petitioner's previous and current mental health treatment;

(iii) the petitioner's previous violent behavior, if any;

(iv) the petitioner's current mental health medications and medication management;

(v) the length of time the petitioner has been stable;

(vi) external factors that may influence the petitioner's stability;

(vii) the ability of the petitioner to maintain stability with or without medication; and

(viii) whether the petitioner is dangerous to public safety; and

(d) a copy of the petitioner's state and federal criminal history record.

(3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case or, if the disability is not based on a criminal case, on the county or district attorney's office having jurisdiction where the petition was filed and the individual who filed the original action which resulted in the disability.

(4) The court shall schedule a hearing as soon as practicable. The petitioner may present evidence and subpoena witnesses to appear at the hearing. The prosecuting, county attorney, or the individual who filed the original action which resulted in the disability may object to the petition and present evidence in support of the objection.

(5) The court shall consider the following evidence:

(a) the facts and circumstances that resulted in the commitment, finding, or adjudication; and

(b) the person's mental health and criminal history records.

(6) The court shall grant the relief if the court finds by clear and convincing evidence that:

(a) the person is not a danger to the person or to others;

(b) the person is not likely to act in a manner dangerous to public safety; and

(c) the requested relief would not be contrary to the public interest.

(7) The court shall issue an order with its findings and send a copy to the bureau.

(8) The bureau, upon receipt of a court order removing a person's disability under Subsection 76-10-503(1)(b)(vii), shall send a copy of the court order to the National Instant Check System requesting removal of the person's name from the database. In addition, if the person is listed in a state database utilized by the bureau to determine eligibility for the purchase or possession of a firearm or to obtain a

concealed firearm permit, the bureau shall remove the petitioner's name or send a copy of the court's order to the agency responsible for the database for removal of the petitioner's name.

(9) If the court denies the petition, the petitioner may not petition again for relief until at least two years after the date of the court's final order.

(10) The petitioner may appeal a denial of the requested relief. The review on appeal shall be de novo.

Enacted by Chapter 424, 2013 General Session

76-10-601. Definitions.

As used in this part:

(1) "Person" means any individual, organization, group, association, partnership, corporation, or any combination of them;

(2) "Professional fund raiser" means any person who for compensation or any other consideration plans, conducts, or manages in this state, the solicitation of contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons in this state as independently engaged in the business of soliciting contributions for such purpose, but shall not include a bona fide officer or employee of a charitable organization;

(3) "Professional solicitor" means any person who is employed or retained for compensation by a professional fund raiser to solicit contributions in this state for charitable purposes;

(4) "Charitable organization" means any organization that is benevolent, philanthropic, patriotic, or eleemosynary or one purporting to be such;

(5) "Contribution" means the promise or grant of any money or property of any kind or value.

Enacted by Chapter 196, 1973 General Session

76-10-602. Use of person's name without consent for soliciting contribution prohibited -- Exception.

No charitable organization, professional fund raiser, or professional solicitor, seeking to raise funds for charitable purposes, shall use the name of any other person for the purpose of soliciting contributions, in this state, without the written consent of the person; provided that this section shall not apply to religious corporations or organizations, charities, agencies, and organizations operated, supervised, or controlled by or in connection with a religious corporation or organization.

Enacted by Chapter 196, 1973 General Session

76-10-603. Use of name without consent on stationery or as one who contributed to organization prohibited.

It is a violation of this part to use, without written consent, the name of a person for the purpose of soliciting contributions if the person's name is listed on any

stationery, advertisement, brochure, or correspondence of a charitable organization, or his name is listed or referred to as one who has contributed to, sponsored, or endorsed the charitable organization or its activities.

Amended by Chapter 20, 1995 General Session

76-10-604. Violations -- Classification of offense.

Any person who violates the provisions of this part is guilty of a class B misdemeanor.

Amended by Chapter 20, 1995 General Session

76-10-701. Definitions.

As used in this part:

(1) "Bona fide stockholder of record" means a stockholder of record who has acquired stock in good faith and is acting for a proper purpose reasonably related to his interests as a stockholder.

(2) "Director" means any of the persons having by law the direction or management of the affairs of a corporation, by whatever name the persons are described in its charter or known by law.

Enacted by Chapter 196, 1973 General Session

76-10-702. Fraudulent signing of stock subscriptions.

Every person who signs the name of a fictitious person to any subscription for, or agreement to take, stock in any corporation existing or proposed, and every person who signs to any subscription or agreement the name of any person, knowing that the person has no means or does not intend in good faith to comply with all the terms thereof, or under any understanding or agreement that the terms of the subscription or agreement are not to be complied with or enforced, is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-703. Fraudulent documents relating to organization or increase of capital stock.

Every officer, agent, or clerk of any corporation, or any person proposing to organize a corporation, or to increase the capital stock of any corporation, who knowingly exhibits any false, forged, or altered book, paper, voucher, security, or other instrument of evidence to any public officer or board authorized by law to examine the organization of the corporation, or to investigate its affairs, or to allow an increase of its capital, with intent to deceive the officer or board in respect thereto, shall be guilty of a felony of the third degree.

Enacted by Chapter 196, 1973 General Session

76-10-704. Misrepresenting person as officer, agent, member or promoter.

Every person who, without being authorized so to do, subscribes the name of another to, or inserts the name of another in, any prospectus, circular, or other advertisement or announcement of any corporation or joint stock association, existing or intended to be formed, with intent to permit it to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member, or promoter of such corporation or association, is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-705. Concurrence by director in dividend or division of capital in violation of law.

Every director of any stock corporation except savings and loan or building and loan associations who concurs in any vote or act of the directors of the corporation or any of them, by which it is intended either:

(1) to make any dividend except as permitted by Title 16, Chapter 10a, Utah Revised Business Corporation Act; or

(2) to divide, withdraw, or in any manner pay to the stockholders, or any of them, any part of the stated capital of the corporation except as permitted by Title 16, Chapter 10a, Utah Revised Business Corporation Act, is guilty of a class B misdemeanor.

Amended by Chapter 6, 1992 Special Session 3

76-10-706. Unlawful acts by director, officer or agent.

Every director, officer, or agent of any corporation or association who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and who, with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof in the books or accounts of the corporation or association; and every director, officer, agent, or member of any corporation or association who embezzles, abstracts, or willfully misapplies any of the money, funds, or credits of the corporation or association; or who, without authority from the directors, issues or puts in circulation any of the notes of the corporation or association; or who, without the authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of the corporation or association; or who issues any fraudulent, fictitious, or illegal stock in any such corporation or association, with intent in either case to injure or defraud the corporation or association, or any other company, body politic, or corporate, or any individual person, or to deceive any officer of the corporation or association, or any agent appointed to examine the affairs of any such corporation or association; and every person who, with like intent, aids or abets any officer, clerk, or agent in any violation of this section is guilty of a felony of the third degree.

Enacted by Chapter 196, 1973 General Session

76-10-707. False reports.

Every director, officer, or agent of any corporation or joint stock association who knowingly makes or concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition, containing any material statement which is false is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-708. Refusing inspection of books.

Every officer or agent of any corporation having or keeping an office within this state, who has in his custody or control the books of such corporation, and who refuses to give to a bona fide stockholder of record or member of the corporation, lawfully demanding during office hours, the right to inspect or take a copy of it or of any part thereof, is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-709. Presumption of director's knowledge of affairs.

Every director of a corporation or joint stock association is deemed to possess a knowledge of the affairs of his corporation as to enable him to determine whether any act, proceeding, or omission of its directors is a violation of this part.

Amended by Chapter 20, 1995 General Session

76-10-710. Presumption of director's concurrence in action if present at meeting -- Written dissent required.

Every director of a corporation or joint stock association who is present at a meeting of the directors at which any act, proceeding, or omission of the directors in violation of this part occurs is deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent therefrom to be entered in the minutes of the directors or forwards his dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting.

Enacted by Chapter 196, 1973 General Session

76-10-711. Foreign corporations subject to laws.

It is no defense to a prosecution for a violation of any of the provisions of this part that the corporation was one created by the laws of another state, government, or country if it was one carrying on business or keeping an office therefor within this state.

Amended by Chapter 20, 1995 General Session

76-10-801. "Nuisance" defined -- Violation -- Classification of offense.

(1) A nuisance is any item, thing, manner, condition whatsoever that is dangerous to human life or health or renders soil, air, water, or food impure or unwholesome.

(2) Any person, whether as owner, agent, or occupant who creates, aids in creating, or contributes to a nuisance, or who supports, continues, or retains a nuisance, is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-802. Befouling waters.

A person is guilty of a class B misdemeanor if he:

(1) Constructs or maintains a corral, sheep pen, goat pen, stable, pigpen, chicken coop, or other offensive yard or outhouse where the waste or drainage therefrom shall flow directly into the waters of any stream, well, or spring of water used for domestic purposes; or

(2) Deposits, piles, unloads, or leaves any manure heap, offensive rubbish, or the carcass of any dead animal where the waste or drainage therefrom will flow directly into the waters of any stream, well, or spring of water used for domestic purposes; or

(3) Dips or washes sheep in any stream, or constructs, maintains, or uses any pool or dipping vat for dipping or washing sheep in such close proximity to any stream used by the inhabitants of any city or town for domestic purposes as to make the waters thereof impure or unwholesome; or

(4) Constructs or maintains any corral, yard, or vat to be used for the purpose of shearing or dipping sheep within 12 miles of any city or town, where the refuse or filth from the corral or yard would naturally find its way into any stream of water used by the inhabitants of any city or town for domestic purposes; or

(5) Establishes and maintains any corral, camp, or bedding place for the purpose of herding, holding, or keeping any cattle, horses, sheep, goats, or hogs within seven miles of any city or town, where the refuse or filth from the corral, camp, or bedding place will naturally find its way into any stream of water used by the inhabitants of any city or town for domestic purposes.

Enacted by Chapter 196, 1973 General Session

76-10-803. "Public nuisance" defined -- Agricultural operations.

(1) A public nuisance is a crime against the order and economy of the state and consists in unlawfully doing any act or omitting to perform any duty, which act or omission:

(a) annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons;

(b) offends public decency;

(c) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway;

(d) is a nuisance as defined in Section 78B-6-1107; or

(e) in any way renders three or more persons insecure in life or the use of property.

(2) An act which affects three or more persons in any of the ways specified in this section is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.

(3) (a) Activities conducted in the normal and ordinary course of agricultural operations, as defined in Subsection 78B-6-1101(7), and conducted in accordance with sound agricultural practices are presumed to be reasonable and not constitute a public nuisance under Subsection (1).

(b) Agricultural operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.

Amended by Chapter 21, 2009 General Session

76-10-804. Maintaining, committing or failing to remove public nuisance -- Classification of offense.

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-805. Carcass or offal -- Prohibitions relating to disposal -- Classification of offense.

Every person who puts the carcass of any dead animal, or the offal from any slaughter pen, corral, or butcher shop into any river, creek, pond, street, alley, or public highway, or road in common use, or who attempts to destroy it by fire, within one-fourth of a mile of any city or town is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-806. Action for abatement of public nuisance.

The county attorney of the county where the public nuisance exists, upon direction of the county executive, or city attorney of the city where the public nuisance exists, upon direction of the board of city commissioners, or attorney general, upon direction of the governor, or any of the above attorneys without the necessity of direction, is empowered to institute an action in the name of the county, city, or state, as the case may be, to abate a public nuisance. The action shall be brought in the district court of the district where the public nuisance exists and shall be in the form prescribed by the Rules of Civil Procedure of the State of Utah for injunctions, but none of the above attorneys shall be required to execute a bond with respect to the action. If the action is instituted, however, to abate the distribution or exhibition of material alleged to offend public decency, the action shall be in the form prescribed by the

Rules of Civil Procedure of Utah for injunctions, but no restraining order or injunction shall issue except upon notice to the person sought to be enjoined; and that person shall be entitled to a trial of the issues commencing within three days after filing of an answer to the complaint and a decision shall be rendered by the court within two days after the conclusion of the trial. As used in this part, "distribute," "exhibit," and "material" mean the same as provided in Section 76-10-1201.

Amended by Chapter 227, 1993 General Session

76-10-807. Violation of order enjoining a public nuisance.

A person who knowingly violates any judgment or order abating or otherwise enjoining a public nuisance as defined under Section 76-10-803 is guilty of a class B misdemeanor.

Enacted by Chapter 99, 2010 General Session

76-10-808. Relief granted for public nuisance.

If the existence of a public nuisance as defined by subsection 76-10-803(1)(b) is admitted or established, either in a civil or criminal proceeding, a judgment shall be entered which shall:

(a) Permanently enjoin each defendant and any other person from further maintaining the nuisance at the place complained of and each defendant from maintaining such nuisance elsewhere;

(b) Direct the person enjoined to surrender to the sheriff of the county in which the action was brought any material in his possession which is subject to the injunction, and the sheriff shall seize and destroy this material; and

(c) Without proof of special injury direct that an accounting be had and all money and other consideration paid as admission to view any motion picture film determined to constitute a public nuisance, or paid for any publication determined to constitute a public nuisance, in either case without deduction for expenses, be forfeited and paid into the general fund of the county where the nuisance was maintained.

Enacted by Chapter 92, 1977 General Session

76-10-1001. Definitions.

For the purpose of this part:

(1) "Forged trademark," "forged trade name," "forged trade device," and "counterfeited trademark," "counterfeited trade name," "counterfeited trade device," or their equivalents, as used in this part, include every alteration or imitation of any trademark, trade name, or trade device so resembling the original as to be likely to deceive.

(2) "Trademark" or "trade name" or "trade device," as used in this part, includes every trademark registrable with the Division of Corporations and Commercial Code.

Amended by Chapter 66, 1984 General Session

76-10-1002. Forging or counterfeiting trademark, trade name or trade device.

Every person who willfully forges or counterfeits, or procures to be forged or counterfeited, any trademark, trade name, or trade device, usually affixed by any person, or by any association or union of workingmen, to his or its goods, which has been filed with the Division of Corporations and Commercial Code, with intent to pass off any goods to which the forged or counterfeited trademark, trade name, or trade device is affixed, or intended to be affixed, as the goods of the person or association or union of workingmen, is guilty of a class B misdemeanor.

Amended by Chapter 66, 1984 General Session

76-10-1003. Selling goods under counterfeited trademark, trade name or trade device.

Every person who sells or keeps for sale any goods upon or to which any counterfeited trademark, trade name, or trade device has been affixed, after it has been filed with the Division of Corporations and Commercial Code, intending to represent the goods as the genuine goods of another, knowing it to be counterfeited, is guilty of a class B misdemeanor.

Amended by Chapter 66, 1984 General Session

76-10-1004. Sales in containers bearing registered trademark of substituted articles.

Every person who has or uses any container or similar article bearing or having in any way connected with it the registered trademark of another for the purpose of disposing, with intent to deceive or defraud, of any article or substance other than that which the container or similar article originally contained or was connected with by the owner of such trademark is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-1005. Using, destroying, concealing or possessing articles with registered trademark or service mark to deprive owner of use or possession -- Exception.

Every person who, without the consent of the owner of an article bearing the owner's validly registered trademark or service mark, uses, destroys, conceals, or possesses the article or who defaces or otherwise conceals the trademark or service mark upon the article with intent to deprive the owner of the use or possession of the article is guilty of a class B misdemeanor; provided, however, that nothing contained in this part shall be construed to apply to or restrict the transfer or use of wooden boxes or the re-use of burlap or cotton bags or sacks when those bags or sacks have been reversed inside out or the markings thereon have been concealed or obliterated to effectively demonstrate that the products contained therein do not purport to be the products of the owner of the registered trademark or service mark theretofore put upon

those bags.

Amended by Chapter 20, 1995 General Session

76-10-1006. Selling or dealing with articles bearing registered trademark or service mark with intent to defraud.

Every person who, without the consent of the owner of an article bearing the owner's validly registered trademark or service mark, knowingly sells or traffics in the articles or who withholds the articles from the owner thereof with intent to defraud the owner thereof is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-1007. Use of registered trademark without consent.

Every person who adopts or in any way uses the registered trademark of another without the consent of the owner thereof, is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-1008. Inspections by trade commission.

Subject to the provisions of Section 76-10-1009 of this part, the Utah State Trade Commission may, for purposes of enforcement of this part, inspect the premises of any business operating in this state during regular business hours.

Amended by Chapter 20, 1995 General Session

76-10-1009. Violation as unfair trade practice and unfair competition -- Investigation and enforcement proceedings by trade commission.

Violation of a provision of this part is hereby declared to be an unfair trade practice and an unfair method of competition. The Utah state trade commission shall have jurisdiction over violations and may proceed against a violator as provided by the trade commission act. The trade commission may institute an investigation upon receiving an informal complaint from a person who claims to have been injured by the violation of this part. Upon receiving a sworn complaint from a person claiming to be injured by a violation of this part, the trade commission must institute an investigation. If evidence of a violation is found by the commission or is produced by the complainant, the commission must take appropriate enforcement proceedings as provided in the trade commission act.

Enacted by Chapter 196, 1973 General Session

76-10-1010. Action by law enforcement agencies on complaints.

Nothing in this part providing for enforcement by the trade commission shall be construed to deprive law enforcement agencies from assuming jurisdiction and acting upon a proper complaint as provided by law.

Enacted by Chapter 196, 1973 General Session

76-10-1101. Definitions.

As used in this part:

(1) (a) "Fringe gambling" means any gambling, lottery, or video gaming device which is:

(i) given, conducted, or offered for use or sale by a business in exchange for anything of value; or

(ii) given away incident to the purchase of other goods or services.

(b) "Fringe gambling" does not mean a promotional activity that is clearly ancillary to the primary activity of a business.

(c) Determination of whether a promotional activity is clearly ancillary under Subsection (1)(b) is by consideration of the totality of the circumstances, which may include one or more of these factors:

(i) the manner in which the business is marketed, advertised, or promoted;

(ii) whether and the degree to which the business provides instructions regarding the use or operation of the promotional activity, as compared to the use or operation of the goods or services sold by the business;

(iii) the availability and terms of any free play option to engage in the promotional activity;

(iv) whether any contest, sweepstakes, or other promotional entries provided to customers who purchase goods or services from the business provide any advantage in winning a prize over any advantage provided to participants in the promotional activity who do not purchase goods or services from the business;

(v) whether the goods or services promoted for purchase by the business are on terms that are commercially reasonable; and

(vi) whether any prize won by participation in the promotion may be parlayed into one or more additional opportunities to win an additional prize.

(2) (a) "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome:

(i) is based upon an element of chance; and

(ii) is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome.

(b) "Gambling" includes a lottery and fringe gambling.

(c) "Gambling" does not include:

(i) a lawful business transaction; or

(ii) playing an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(3) "Gambling bet" means money, checks, credit, or any other representation of value.

(4) "Gambling device or record" means anything specifically designed for use in gambling or used primarily for gambling.

(5) "Gambling proceeds" means anything of value used in gambling.

(6) "Internet gambling" or "online gambling" means gambling or gaming by use of:

(a) the Internet; or

(b) any mobile electronic device that allows access to data and information.

(7) "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property, or portion of it, or for any share or any interest in property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it is known.

(8) "Video gaming device" means any device that possesses all of the following characteristics:

(a) a video display and computer mechanism for playing a game;

(b) the length of play of any single game is not substantially affected by the skill, knowledge, or dexterity of the player;

(c) a meter, tracking, or recording mechanism that records or tracks any money, tokens, games, or credits accumulated or remaining;

(d) a play option that permits a player to spend or risk varying amounts of money, tokens, or credits during a single game, in which the spending or risking of a greater amount of money, tokens, or credits:

(i) does not significantly extend the length of play time of any single game; and

(ii) provides for a chance of greater return of credits, games, or money; and

(e) an operating mechanism that requires inserting money, tokens, or other valuable consideration in order to function.

Amended by Chapter 27, 2012 General Session
Amended by Chapter 157, 2012 General Session

76-10-1102. Gambling.

(1) A person is guilty of gambling if the person:

(a) participates in gambling, including any Internet or online gambling;

(b) knowingly permits any gambling to be played, conducted, or dealt upon or in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or

(c) knowingly allows the use of any video gaming device that is:

(i) in any business establishment or public place; and

(ii) accessible for use by any person within the establishment or public place.

(2) Gambling is a class B misdemeanor, except that any person who is convicted two or more times under this section is guilty of a class A misdemeanor.

(3) (a) A person is guilty of a class A misdemeanor who intentionally provides or offers to provide any form of Internet or online gambling to any person in this state.

(b) Subsection (3)(a) does not apply to an Internet service provider or hosting company as defined in Section 76-10-1230, a provider of public telecommunications services as defined in Section 54-8b-2, or an Internet advertising service by reason of the fact that the Internet service provider, hosting company, Internet advertising

service, or provider of public telecommunications services:

(i) transmits, routes, or provides connections for material without selecting the material; or

(ii) stores or delivers the material at the direction of a user.

(4) If any federal law is enacted that authorizes Internet gambling in the states and that federal law provides that individual states may opt out of Internet gambling, this state shall opt out of Internet gambling in the manner provided by federal law and within the time frame provided by that law.

(5) Whether or not any federal law is enacted that authorizes Internet gambling in the states, this section acts as this state's prohibition of any gambling, including Internet gambling, in this state.

Amended by Chapter 157, 2012 General Session

76-10-1103. Gambling fraud.

(1) A person is guilty of gambling fraud if he participates in gambling and wins or acquires to himself or another any gambling proceeds when he knows he has a lesser risk of losing or greater chance of winning than one or more of the other participants, and the risk is not known to all participants.

(2) A person convicted of gambling fraud shall be punished as in the case of theft of property of like value.

Enacted by Chapter 196, 1973 General Session

76-10-1104. Gambling promotion.

(1) A person is guilty of gambling promotion if he derives or intends to derive an economic benefit other than personal winnings from gambling and:

(a) he induces or aids another to engage in gambling; or

(b) he knowingly invests in, finances, owns, controls, supervises, manages, or participates in any gambling.

(2) Gambling promotion is a class B misdemeanor, provided, however that any person who is twice convicted under this section shall be guilty of a felony of the third degree.

Amended by Chapter 241, 1991 General Session

76-10-1104.5. Advertisement or solicitation for participation in lotteries -- Void in Utah.

(1) For purposes of this section:

(a) "Conspicuously printed" means printed in either larger or bolder type size than the adjacent and surrounding material so as to be clearly legible to any person viewing the print.

(b) "Lottery" means the same as defined in Section 76-10-1101.

(2) It is unlawful for any person to distribute or disseminate any advertisement or other written or printed material containing an advertisement or solicitation for

participation in any lottery unless the advertisement or solicitation contains or includes the words "Void in Utah" conspicuously printed.

(3) (a) Any person who is convicted of violating Subsection (2) shall be fined the sum of $2,500.

(b) Any person who is twice or more convicted under this section shall be fined the sum of $10,000.

Enacted by Chapter 182, 2001 General Session

76-10-1105. Possessing a gambling device or record.

(1) A person is guilty of possessing a gambling device or record if he knowingly possesses it with intent to use it in gambling.

(2) Possession of a gambling device or record is a class B misdemeanor, provided, however, that any person who is twice convicted under this section shall be guilty of a class A misdemeanor, and any person who is convicted three or more times under this section shall be guilty of a felony of the third degree.

Enacted by Chapter 196, 1973 General Session

76-10-1106. Duty of prosecuting attorney or law enforcement officer to prosecute offenses.

All prosecuting attorneys, sheriffs, constables, and peace officers who have reasonable cause to believe any person has violated any provisions of this part shall diligently prosecute those persons.

Amended by Chapter 118, 1990 General Session

76-10-1108. Seizure and disposition of gambling debts or proceeds.

Any gambling bets or gambling proceeds which are reasonably identifiable as having been used or obtained in violation of this part may be seized and are subject to forfeiture proceedings in accordance with Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.

Amended by Chapter 180, 2007 General Session

76-10-1109. Confidence game -- Punishment as for theft -- Description in charge.

(1) Any person who obtains or attempts to obtain from any other person any money or property by any means, instrument or device commonly called a confidence game shall be punished as in the case of theft of property of like value.

(2) In every indictment, information, or complaint under this section, it shall be deemed and held a sufficient description of the offense to charge that the accused did, on, ____ (insert the date) unlawfully and knowingly obtain or attempt to obtain (as the case may be) from ____, (insert the name of the person or persons defrauded or attempted to be defrauded) his money or property (as the case may be) by means and

by use of a confidence game.

Enacted by Chapter 196, 1973 General Session

76-10-1201. Definitions.

For the purpose of this part:

(1) "Blinder rack" means an opaque cover that covers the lower 2/3 of a material so that the lower 2/3 of the material is concealed from view.

(2) "Contemporary community standards" means those current standards in the vicinage where an offense alleged under this part has occurred, is occurring, or will occur.

(3) "Distribute" means to transfer possession of materials whether with or without consideration.

(4) "Exhibit" means to show.

(5) (a) "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:

(i) taken as a whole, appeals to the prurient interest in sex of minors;

(ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(iii) taken as a whole, does not have serious value for minors.

(b) Serious value includes only serious literary, artistic, political or scientific value for minors.

(6) (a) "Knowingly," regarding material or a performance, means an awareness, whether actual or constructive, of the character of the material or performance.

(b) As used in this Subsection (6), a person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the subject matter and if a failure to inspect or observe is either for the purpose of avoiding the disclosure or is criminally negligent as described in Section 76-2-103.

(7) "Material" means anything printed or written or any picture, drawing, photograph, motion picture, or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or anything which is or may be used as a means of communication. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects.

(8) "Minor" means any person less than 18 years of age.

(9) "Negligently" means simple negligence, the failure to exercise that degree of care that a reasonable and prudent person would exercise under like or similar circumstances.

(10) "Nudity" means:

(a) the showing of the human male or female genitals, pubic area, or buttocks, with less than an opaque covering;

(b) the showing of a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(c) the depiction of covered male genitals in a discernibly turgid state.

(11) "Performance" means any physical human bodily activity, whether engaged in alone or with other persons, including singing, speaking, dancing, acting, simulating, or pantomiming.

(12) "Public place" includes a place to which admission is gained by payment of a membership or admission fee, however designated, notwithstanding its being designated a private club or by words of like import.

(13) "Sadomasochistic abuse" means:

(a) flagellation or torture by or upon a person who is nude or clad in undergarments, a mask, or in a revealing or bizarre costume; or

(b) the condition of being fettered, bound, or otherwise physically restrained on the part of a person clothed as described in Subsection (13)(a).

(14) "Sexual conduct" means acts of masturbation, sexual intercourse, or any touching of a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.

(15) "Sexual excitement" means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Amended by Chapter 278, 2013 General Session

76-10-1203. Pornographic material or performance -- Expert testimony not required.

(1) Any material or performance is pornographic if:

(a) The average person, applying contemporary community standards, finds that, taken as a whole, it appeals to prurient interest in sex;

(b) It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and

(c) Taken as a whole it does not have serious literary, artistic, political or scientific value.

(2) In prosecutions under this part, where circumstances of production, presentation, sale, dissemination, distribution, exhibition, or publicity indicate that the matter is being commercially exploited by the defendant for the sake of its prurient appeal, this evidence is probative with respect to the nature of the matter and can justify the conclusion that, in the context in which it is used, the matter has no serious literary, artistic, political, or scientific value.

(3) Neither the prosecution nor the defense shall be required to introduce expert witness testimony as to whether the material or performance is or is not harmful to adults or minors or is or is not pornographic, or as to any element of the definition of pornographic, including contemporary community standards.

Amended by Chapter 92, 1977 General Session

76-10-1204. Distributing pornographic material -- Penalties -- Exemptions for Internet service providers and hosting companies.

(1) A person is guilty of distributing pornographic material when the person knowingly:

(a) sends or brings any pornographic material into the state with intent to distribute or exhibit it to others;

(b) prepares, publishes, prints, or possesses any pornographic material with intent to distribute or exhibit it to others;

(c) distributes or offers to distribute, or exhibits or offers to exhibit, any pornographic material to others;

(d) writes, creates, or solicits the publication or advertising of pornographic material;

(e) promotes the distribution or exhibition of material the person represents to be pornographic; or

(f) presents or directs a pornographic performance in any public place or any place exposed to public view or participates in that portion of the performance which makes it pornographic.

(2) Each distributing of pornographic material as defined in Subsection (1) is a separate offense.

(3) It is a separate offense under this section for:

(a) each day's exhibition of any pornographic motion picture film; and

(b) each day in which any pornographic publication is displayed or exhibited in a public place with intent to distribute or exhibit it to others.

(4) (a) An offense under this section committed by a person 18 years of age or older is a third degree felony punishable by:

(i) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) An offense under this section committed by a person 16 or 17 years of age is a class A misdemeanor.

(c) An offense under this section committed by a person younger than 16 years of age is a class B misdemeanor.

(d) Subsection (4)(a) supersedes Section 77-18-1.

(5) A person 18 years of age or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years of age to engage in conduct prohibited under Subsection (1), (2), or (3) is guilty of a third degree felony and is subject to the penalties under Subsection (4)(a).

(6) (a) This section does not apply to an Internet service provider, as defined in Section 76-10-1230, if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the Internet service provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the Internet service provider does not intentionally aid or abet in the

distribution of the pornographic material; and

(iii) the Internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute the pornographic material.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute, store, or cache the pornographic material.

Amended by Chapter 345, 2009 General Session

76-10-1205. Inducing acceptance of pornographic material -- Exemptions for Internet service providers and hosting companies.

(1) A person is guilty of inducing acceptance of pornographic material when he knowingly:

(a) requires or demands as a condition to a sale, allocation, consignment, or delivery for resale of any newspaper, magazine, periodical, book, publication, or other merchandise that the purchaser or consignee receive any pornographic material or material reasonably believed by the purchaser or consignee to be pornographic; or

(b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any penalty, financial or otherwise, because of the failure or refusal to accept pornographic material or material reasonably believed by the purchaser or consignee to be pornographic.

(2) (a) An offense under this section is a third degree felony punishable by:

(i) a minimum mandatory fine of not less than $1,000 plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) This Subsection (2) supersedes Section 77-18-1.

(3) (a) This section does not apply to an Internet service provider, as defined in Section 76-10-1230, if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the Internet service provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the Internet service provider does not intentionally aid or abet in the distribution of the pornographic material; and

(iii) the Internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting

the person to distribute the pornographic material.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute, store, or cache the pornographic material.

Amended by Chapter 337, 2007 General Session

76-10-1206. Dealing in material harmful to a minor -- Penalties -- Exemptions for Internet service providers and hosting companies.

(1) A person is guilty of dealing in material harmful to minors when, knowing or believing that a person is a minor, or having negligently failed to determine the proper age of a minor, the person intentionally:

(a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or a person the actor believes to be a minor, any material harmful to minors;

(b) produces, performs, or directs any performance, before a minor or a person the actor believes to be a minor, that is harmful to minors; or

(c) participates in any performance, before a minor or a person the actor believes to be a minor, that is harmful to minors.

(2) (a) Each separate offense under this section committed by a person 18 years of age or older is a third degree felony punishable by:

(i) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than 14 days.

(b) Each separate offense under this section committed by a person 16 or 17 years of age is a class A misdemeanor.

(c) Each separate offense under this section committed by a person younger than 16 years of age is a class B misdemeanor.

(d) Subsection (2)(a) supersedes Section 77-18-1.

(3) (a) If a defendant 18 years of age or older has been previously convicted or adjudicated to be under the jurisdiction of the juvenile court under this section, each separate subsequent offense is a second degree felony punishable by:

(i) a minimum mandatory fine of not less than $5,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than one year.

(b) If a defendant younger than 18 years of age has been previously convicted or adjudicated to be under the jurisdiction of the juvenile court under this section, each

separate subsequent offense is a third degree felony.

(c) Subsection (3)(a) supersedes Section 77-18-1.

(d) (i) This section does not apply to an Internet service provider, as defined in Section 76-10-1230, a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(A) the distribution of pornographic material by the Internet service provider occurs only incidentally through the provider's function of:

(I) transmitting or routing data from one person to another person; or

(II) providing a connection between one person and another person;

(B) the provider does not intentionally aid or abet in the distribution of the pornographic material; and

(C) the provider does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the pornographic material.

(ii) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(A) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(B) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(C) the hosting company does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the pornographic material.

(4) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

(5) A person 18 years of age or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years of age to engage in conduct in violation of Subsection (1) is guilty of a third degree felony and is subject to the penalties under Subsection (2)(a).

Amended by Chapter 345, 2009 General Session

76-10-1207. Use of real property by tenant or occupant -- Voiding of lease -- Allowance of such use by owner or lessor.

(1) If a tenant or occupant of real property uses this property for an activity for which he or his employee is convicted under any provision of this part, the conviction makes void the lease or other title under which he holds at the option of the fee owner or any intermediate lessor; and 10 days after the fee owner or any intermediate lessor gives notice in writing to the tenant or occupant that he is exercising the option, the

right of possession to the property reverts in the person exercising the option. This option does not arise until all avenues of direct appeal from the conviction have been exhausted or abandoned by the tenant or occupant, or his employee.

(2) It shall be unlawful for a fee owner or intermediate lessor of real property to knowingly allow this property to be used for the purpose of distributing or exhibiting pornographic materials, or for pornographic performances, by a tenant or occupant if the tenant or occupant, or his employee, has been convicted under any provision of this part of an offense occurring on the same property and all avenues of direct appeal from the conviction have been exhausted or abandoned.

(a) "Allow" under this subsection (2) means a failure to exercise the option arising under subsection (1) within 10 days after the fee owner or lessor receives notice in writing from the county attorney of the county where the property is situated, or if situated in a city of the first or second class, from the city attorney of that city, that the property is being used for a purpose prohibited by this subsection (2).

(b) A willful violation of this subsection (2) is a class A misdemeanor and any fine assessed, if not paid within 30 days after judgment, shall become a lien upon the property.

(3) Any tenant or occupant who receives a notice in writing that the fee owner or intermediate lessor is exercising the option provided by subsection (1) and who does not quit the premises within 10 days after the giving of that notice is guilty of a class A misdemeanor.

Enacted by Chapter 92, 1977 General Session

76-10-1207.5. Exemption -- Corrections treatment, programs.

This part does not apply to the Department of Corrections or any treatment program by or under contract with the department when the use of sexually explicit material that is pornographic is limited to the assessment or treatment of an offender as defined under Section 64-13-1.

Enacted by Chapter 138, 1990 General Session

76-10-1208. Affirmative defenses.

(1) It is an affirmative defense to prosecution under this part that the distribution of pornographic material is restricted to institutions or persons having scientific, educational, governmental, or other similar justification for possessing pornographic material.

(2) It is not a defense to prosecution under this part that the actor is a motion picture projectionist, usher, ticket-taker, bookstore employee, or otherwise is required to violate this part incident to the person's employment.

(3) It is an affirmative defense to prosecution under Section 76-10-1206, 76-10-1227, or 76-10-1228 for displaying or exhibiting an outer portion of material, that the material is:

(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the lower 2/3 of the material is concealed from view;

(b) placed behind a blinder rack; or

(c) displayed in an area from which a minor is physically excluded if the material cannot be viewed by the minor from an area in which a minor is allowed.

Amended by Chapter 123, 2007 General Session

76-10-1209. Injunctive relief -- Jurisdiction -- Consent to be sued.

(1) The district courts of this state shall have full power, authority, and jurisdiction, upon application by any county attorney or city attorney within their respective jurisdictions or the attorney general, to issue any and all proper restraining orders, preliminary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce the provisions of this part. No restraining order or injunction, however, shall issue except upon notice to the person sought to be enjoined. That person shall be entitled to a trial of the issues commencing within three days after filing of an answer to the complaint and a decision shall be rendered by the court within two days after the conclusion of the trial. If a final order or judgment of injunction is entered against the person sought to be enjoined, this final order or judgment shall contain a provision directing the person to surrender to the sheriff of the county in which the action was brought any pornographic material in the person's possession which is subject to the injunction; and the sheriff shall be directed to seize and destroy this material.

(2) Any person not qualified to do business in the state who sends or brings any pornographic material into the state with the intent to distribute or exhibit it to others in this state consents that the person may be sued in any proceedings commenced under this section.

Amended by Chapter 43, 2010 General Session

76-10-1210. Relation to other laws.

(1) (a) It is not the intent of this part to prescribe or limit the regulation of pornographic materials or materials harmful to minors, and counties, cities, and other political subdivisions are specifically given the right to further regulate the materials.

(b) Without limitation, a political subdivision may further regulate materials by ordinances relating to:

(i) zoning;

(ii) licensing;

(iii) public nuisances;

(iv) a specific type of business such as adult bookstores or drive-in movies; or

(v) use of blinder racks.

(2) It is not the intent of this part to preclude the application of other laws of this state to pornographic materials or materials harmful to minors. Specifically, without limitation, this part is not in derogation of Sections 76-10-803 and 76-10-806.

(3) The commission of a crime under this part shall be considered to offend public decency under Section 76-10-803. It is the intent of this part to give the broadest meaning permissible under the federal and state constitutions to the words "offends

public decency" in Section 76-10-803.

Amended by Chapter 123, 2007 General Session

76-10-1211. Separability clause.

If any clause, sentence, paragraph, or part of this part or its application to any person or circumstance shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder of this part or its application to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph, persons, or circumstances, or part thereof directly involved in the controversy in which the judgment shall have been rendered.

Amended by Chapter 20, 1995 General Session

76-10-1212. Search and seizure -- Affidavit -- Issuance of warrant -- Hearing upon claim that material seized not pornographic or harmful to minors -- Procedures cumulative.

(1) An affidavit for a search warrant shall be filed with the magistrate describing with specificity the material sought to be seized. Where practical, the material alleged to be pornographic or harmful to minors shall be attached to the affidavit for search warrant to afford the magistrate the opportunity to examine this material.

(2) Upon the filing of an affidavit for a search warrant, the magistrate shall determine, by examination of the material sought to be seized if attached, by examination of the affidavit describing the material, or by other manner or means that he finds necessary, whether probable cause exists to believe that the material is pornographic or harmful to minors and whether probable cause exists for the immediate issuance of a search warrant. Upon making this determination, he shall issue a search warrant ordering the seizure of the material described in the affidavit for a search warrant according to the provisions of the Utah Rules of Criminal Procedure.

(3) (a) If a search warrant is issued and material alleged to be pornographic or harmful to minors is seized under the provisions of this section, any person claiming to be in possession of this material or claiming ownership of it at the time of its seizure may file a notice in writing with the magistrate within 10 days after the date of the seizure, alleging that the material is not pornographic or harmful to minors.

(b) The magistrate shall set a hearing within seven days after the filing of this notice, or at another time to which the claimant might agree. At this hearing evidence may be presented as to whether there is probable cause to believe the material seized is pornographic or harmful to minors, and at the conclusion of the hearing the magistrate shall make a further determination of whether probable cause exists to believe that the material is pornographic or harmful to minors.

(c) A decision as to whether there is probable cause to believe the seized material is pornographic or harmful to minors shall be rendered by the court within two days after the conclusion of the hearing.

(d) If at the hearing the magistrate finds that no probable cause exists to believe

that the material is pornographic or harmful to minors, then the material shall be returned to the person or persons from whom it was seized.

(e) If the material seized is a film, and the claimant demonstrates that no other copy of the film is available to him, the court shall allow the film to be copied at the claimant's expense pending the hearing.

(4) If a motion to suppress the evidence is granted on the grounds of an unlawful seizure, the property shall be restored unless it is subject to confiscation as contraband, in which case it may not be returned.

(5) (a) Procedures under this section for the seizure of allegedly pornographic material or material harmful to minors are cumulative of all other lawful means of obtaining evidence as provided by the laws of this state.

(b) This section does not prevent the obtaining of allegedly pornographic material or material harmful to minors by purchase, subpoena duces tecum, or under injunction proceedings as authorized by this act or by any other provision of law of the state.

Amended by Chapter 53, 2000 General Session

76-10-1213. Corporate defendants -- Summons -- Subpoena duces tecum.

(1) (a) The attendance in court of a corporation for purposes of commencing or prosecuting a criminal action against it under this part may be accomplished by the issuance and service of a summons. A summons shall be issued by a magistrate if he finds probable cause that material in the possession of the corporation against which the summons is sought is pornographic or harmful to minors, which finding shall be upon affidavit describing with specificity the material alleged to be pornographic or harmful to minors or by another manner or means the magistrate finds necessary.

(b) Where practical, the material alleged to be pornographic or harmful to minors shall be attached to the affidavit so as to afford the magistrate the opportunity to examine this material.

(c) The summons must be served upon the corporation by delivery of it to an officer, director, managing or general agent, or cashier, or assistant cashier of the corporation.

(2) The production of material alleged to be pornographic or harmful to minors in any proceedings under this part against a corporation may be compelled by the issuance and service of a subpoena duces tecum. This section does not prohibit or limit the use of a subpoena duces tecum in proceedings against natural persons under this part.

Amended by Chapter 53, 2000 General Session

76-10-1214. Conspiracy an offense -- Punishment.

(1) A conspiracy of two or more persons to commit any offense proscribed by this part is a third degree felony punishable for each separate offense by a minimum mandatory fine of not less than $1,000 and by imprisonment, without suspension of sentence in any way, for a term of not less than 60 days. This subsection supersedes

Section 77-18-1.

(2) If a defendant has already been convicted once under this section, each separate further offense is a second degree felony punishable by a minimum mandatory fine of not less than $5,000 and by imprisonment, without suspension of sentence in any way, for a term of not less than one year. This subsection supersedes Section 77-18-1.

Amended by Chapter 163, 1990 General Session

76-10-1215. Prosecution by county, district, or city attorney -- Fines payable to county or city.

Prosecution for violation of any section of this part, including a felony violation, shall be brought by the county attorney or, if within a prosecution district, the district attorney of the county where the violation occurs. If the violation occurs, however, in a city of the first or second class, prosecution may be brought by either the county, district, or city attorney, notwithstanding any provision of law limiting the powers of city attorneys. All fines imposed for the violation of this part shall be paid to the county or city of the prosecuting attorney, as the case may be.

Amended by Chapter 38, 1993 General Session

76-10-1216. Distribution of motion picture films -- Definitions.

As used in this act:

(1) "Exhibit" means to show in a public place or in a place where the public is admitted, whether or not an admission fee is charged.

(2) "Distributor" means any person from which a film is acquired by sale, lease, loan, or any other means, directly or indirectly, for the purpose of exhibiting it in this state or elsewhere but shall not include any person whose function with respect to any film is limited to the transportation or storage thereof.

(3) "Film" means what is usually known as a motion picture film and which is intended to be shown commercially for profit by devices of any kind whatsoever.

(4) "Person" includes a natural person, firm, association, partnership, or corporation.

(5) "Public place" includes any place to which admission is gained by payment of a membership or admission fee, however designated, notwithstanding it is designated as a private club or by words of like import.

Enacted by Chapter 92, 1977 General Session

76-10-1217. Intent to prevent commercial distribution and exhibition of pornographic films--Local regulation and other laws not limited.

(1) It is the intent of this act to prevent the commercial distribution and exhibition of films in this state which are pornographic. There is substantial evidence that elements of organized crime have engaged to an increasing degree in the production and distribution of such films and, therefore, it is the further intent of this act to facilitate

the criminal prosecution of distributors of pornographic films.

(2) It is not the intent of this act to limit the regulation of films by counties, cities, towns, and other political subdivisions within the state, and these subdivisions are specifically given the right by this act to further regulate films. Nor is it the intent of this act to limit or abridge the power to otherwise prosecute violations of any other provisions of law including, but not limited to, those provisions of Part 12 of Title 76, Chapter 10.

Enacted by Chapter 93, 1977 General Session

76-10-1218. Qualification for exhibition and distribution of films required.

No person shall distribute any film for exhibition in this state unless that person is first qualified to do so nor exhibit any film in this state which was not acquired for exhibition, directly or indirectly, from a distributor qualified to distribute films in this state.

Enacted by Chapter 93, 1977 General Session

76-10-1219. Qualification for distribution of films.

(1) A distributor which is a corporation shall be qualified to distribute films within this state if:

(a) it is a domestic corporation in good standing or a foreign corporation authorized to transact business in this state; and

(b) it submits itself to the jurisdiction and laws of this state relating to being a distributor in this state.

(2) A distributor which is not a corporation shall be qualified to distribute films within this state if:

(a) it has and continuously maintains a registered office in this state; and

(b) it has a registered agent whose business address is at that registered office and which is either an individual residing and domiciled in this state, a domestic corporation in good standing, or a foreign corporation authorized to transact business in this state.

(3) This section shall not affect the right to serve any process, notice, or demand, required or permitted by law to be served upon a distributor, in any other manner provided by law.

Amended by Chapter 43, 2010 General Session
Amended by Chapter 324, 2010 General Session

76-10-1220. Change of registered office or agent by film distributor.

A distributor qualified to distribute films in this state may change its registered office or registered agent in accordance with Title 16, Chapter 17, Model Registered Agents Act.

Amended by Chapter 43, 2010 General Session

76-10-1221. Service of process, notice, or demand on registered agent of film distributor.

Any process, notice, or demand required or permitted by law to be served upon the distributor may be served upon the registered agent of that distributor.

Amended by Chapter 43, 2010 General Session

76-10-1222. Distribution of pornographic film -- Penalties for violations.

(1) Any person who knowingly or by criminal negligence distributes for exhibition within this state a film which is pornographic as that term is defined in the Utah criminal code shall be guilty of a class A misdemeanor and shall, for each separate offense, be fined not less than $1,000 and imprisoned, without suspension of sentence in any way, for a term of not less than 60 days.

(2) Any person convicted of a violation of this section who has been convicted before of a violation of this section, shall be guilty of a felony of the third degree and shall, for each separate offense, be fined not less than $5,000 and imprisoned, without suspension of sentence in any way, for a term of not less than six months.

(3) Each copy of a pornographic film distributed for exhibition within this state in violation of this section shall constitute a separate offense.

Enacted by Chapter 93, 1977 General Session

76-10-1223. Distribution of film without being qualified -- Exhibition of film not acquired from qualified distributor -- Penalties for violations.

(1) Any person who knowingly distributes any film for exhibition within this state without being qualified to do so, or who knowingly exhibits a film in this state which has not been acquired from a distributor qualified to distribute films in this state is guilty of a class B misdemeanor and shall, for each separate offense, be fined not less than $299 and imprisoned, without suspension of sentence in any way, for a term of not less than 30 days.

(2) Any person convicted of a violation of this section, who has been convicted before of a violation of this section, shall be guilty of a class A misdemeanor and shall, for each separate offense, be fined not less than $1,000 and imprisoned, without suspension of sentence in any way, for a term of not less than 60 days.

(3) Each day's exhibition of such a film, and each copy of a film distributed for exhibition within this state, shall constitute a separate offense.

Enacted by Chapter 93, 1977 General Session

76-10-1224. Defense to prosecution for distribution or exhibition of pornographic film -- Status as projectionist or other employee no defense.

(1) It shall be an affirmative defense to any prosecution under Section 76-10-1222 or 76-10-1223 that the distribution is exempt from the restrictions of this act by the provisions of Section 76-10-1226.

(2) It shall not constitute a defense to any prosecution under Section

76-10-1222 or 76-10-1223 that the actor was a motion picture projectionist or was otherwise required by his employment to commit the violation complained of.

Enacted by Chapter 93, 1977 General Session

76-10-1225. Prosecution of pornographic film violations by county attorney, district attorney, or city attorney.

The county attorney of the county where the violation occurred or within a prosecution district where the violation occurred, the district attorney shall file and prosecute any action for violations of this act unless the violation occurs in a city of the first or second class. If the violation occurs in such a city, the action may be commenced and prosecuted by either the city attorney or the county attorney. All fines imposed for any violation of this act shall be paid to the political subdivision employing the prosecuting attorney.

Amended by Chapter 38, 1993 General Session

76-10-1226. Exemptions from application of film distribution act.

This part does not apply to any film:

(1) distributed to or exhibited by any accredited university, college, school, library, or other educational institution, church, or museum, if there is scientific, religious, or educational justification for the exhibition of the film; or

(2) exhibited by the Department of Corrections or exhibited as part of any treatment program operated by or under contract with the department if the exhibition of the film is solely for the assessment or treatment of an offender as defined under Section 64-13-1.

Amended by Chapter 138, 1990 General Session

76-10-1227. Indecent public displays -- Definitions.

(1) For purposes of this section and Section 76-10-1228:

(a) "Description or depiction of illicit sex or sexual immorality" means:

(i) human genitals in a state of sexual stimulation or arousal;

(ii) acts of human masturbation, sexual intercourse, or sodomy;

(iii) fondling or other erotic touching of human genitals or pubic region; or

(iv) fondling or other erotic touching of the human buttock or female breast.

(b) "Nude or partially denuded figure" means:

(i) less than completely and opaquely covering human:

(A) genitals;

(B) pubic regions;

(C) buttock; and

(D) female breast below a point immediately above the top of the areola; and

(ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(2) (a) Subject to Subsection (2)(c), this section and Section 76-10-1228 do not

apply to any material which, when taken as a whole, has serious value for minors.

(b) As used in Subsection (2)(a), "serious value" means having serious literary, artistic, political, or scientific value for minors, taking into consideration the ages of all minors who could be exposed to the material.

(c) A description or depiction of illicit sex or sexual immorality as defined in Subsection (1)(a)(i), (ii), or (iii) has no serious value for minors.

Amended by Chapter 123, 2007 General Session

76-10-1228. Indecent public displays -- Prohibitions -- Penalty.

(1) Subject to the affirmative defense in Subsection 76-10-1208(3), a person is guilty of a class A misdemeanor who willfully or knowingly:

(a) engages in the business of selling, lending, giving away, showing, advertising for sale, or distributing to a minor or has in the person's possession with intent to engage in that business or to otherwise offer for sale or commercial distribution to a minor any material with:

(i) a description or depiction of illicit sex or sexual immorality; or

(ii) a nude or partially denuded figure; or

(b) publicly displays at newsstands or any other establishment frequented by minors, or where the minors are or may be invited as a part of the general public, any motion picture, or any live, taped, or recorded performance, or any still picture or photograph, or any book, pocket book, pamphlet, or magazine the cover or content of which:

(i) exploits, is devoted to, or is principally made up of one or more descriptions or depictions of illicit sex or sexual immorality; or

(ii) consists of one or more pictures of nude or partially denuded figures.

(2) (a) A violation of this section is punishable by:

(i) a minimum mandatory fine of not less than $500; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) This section supersedes Section 77-18-1.

Amended by Chapter 123, 2007 General Session

76-10-1229.5. Breast feeding is not violation of this part.

A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a violation of this part, irrespective of whether or not the breast is covered during or incidental to feeding.

Enacted by Chapter 131, 1995 General Session

76-10-1230. Definitions.

As used in Sections 76-10-1231 and 76-10-1233:

(1) "Consumer" means a natural person residing in this state who subscribes to

a service provided by a service provider for personal or residential use.

(2) "Content provider" means a person domiciled in Utah or that generates or hosts content in Utah, and that creates, collects, acquires, or organizes electronic data for electronic delivery to a consumer with the intent of making a profit.

(3) (a) "Hosting company" means a person that provides services or facilities for storing or distributing content over the Internet without editorial or creative alteration of the content.

(b) A hosting company may have policies concerning acceptable use without becoming a content provider under Subsection (2).

(4) (a) "Internet service provider" means a person engaged in the business of providing a computer communications facility in Utah, with the intent of making a profit, through which a consumer may obtain access to the Internet.

(b) "Internet service provider" does not include a common carrier if it provides only telecommunications service.

(5) "Properly rated" means content using a labeling system to label material harmful to minors provided by the content provider in a way that:

(a) accurately apprises a consumer of the presence of material harmful to minors; and

(b) allows the consumer the ability to control access to material harmful to minors based on the material's rating by use of reasonably priced commercially available software, including software in the public domain.

(6) "Restrict" means to limit access to material harmful to minors by:

(a) properly rating content; or

(b) any other reasonable measures feasible under available technology.

(7) (a) Except as provided in Subsection (7)(b), "service provider" means an Internet service provider.

(b) "Service provider" does not include a person who does not terminate a service in this state, but merely transmits data through:

(i) a wire;

(ii) a cable; or

(iii) an antenna.

(c) "Service provider," notwithstanding Subsection (7)(b), includes a person who meets the requirements of Subsection (7)(a) and leases or rents a wire or cable for the transmission of data.

Amended by Chapter 297, 2008 General Session

76-10-1231. Data service providers -- Internet content harmful to minors.

(1) (a) Upon request by a consumer, a service provider shall filter content to prevent the transmission of material harmful to minors to the consumer.

(b) A service provider complies with Subsection (1)(a) if it uses a generally accepted and commercially reasonable method of filtering.

(2) At the time of a consumer's subscription to a service provider's service, or at the time this section takes effect if the consumer subscribes to the service provider's service at the time this section takes effect, the service provider shall notify the

consumer in a conspicuous manner that the consumer may request to have material harmful to minors blocked under Subsection (1).

(3) (a) A service provider may comply with Subsection (1) by:

(i) providing in-network filtering to prevent receipt of material harmful to minors, provided that the filtering does not affect or interfere with access to Internet content for consumers who do not request filtering under Subsection (1); or

(ii) providing software, engaging a third party to provide software, or referring users to a third party that provides filtering software, by providing a clear and conspicuous hyperlink or written statement, for installation on the consumer's computer that blocks, in an easy-to-enable and commercially reasonable manner, receipt of material harmful to minors.

(b) A service provider may charge a consumer for providing filtering under Subsection (3)(a).

(4) If the attorney general determines that a service provider violates Subsection (1) or (2), the attorney general shall:

(a) notify the service provider that the service provider is in violation of Subsection (1) or (2); and

(b) notify the service provider that the service provider has 30 days to comply with the provision being violated or be subject to Subsection (5).

(5) A service provider that intentionally or knowingly violates Subsection (1) or (2) is subject to a civil fine of $2,500 for each separate violation of Subsection (1) or (2), up to $10,000 per day.

(6) A proceeding to impose a civil fine under Subsection (5) may only be brought by the attorney general in a court of competent jurisdiction.

(7) (a) The Division of Consumer Protection within the Department of Commerce shall, in consultation with other entities as the Division of Consumer Protection considers appropriate, test the effectiveness of a service provider's system for blocking material harmful to minors under Subsection (1) at least annually.

(b) The results of testing by the Division of Consumer Protection under Subsection (7)(a) shall be made available to:

(i) the service provider that is the subject of the test; and

(ii) the public.

(c) The Division of Consumer Protection shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to fulfil its duties under this section.

Amended by Chapter 297, 2008 General Session
Amended by Chapter 382, 2008 General Session

76-10-1233. Content providers -- Material harmful to minors.

(1) A content provider that is domiciled in Utah, or generates or hosts content in Utah, shall restrict access to material harmful to minors.

(2) If the attorney general determines that a content provider violates Subsection (1), the attorney general shall:

(a) notify the content provider that the content provider is in violation of

Subsection (1); and

(b) notify the content provider that the content provider has 30 days to comply with Subsection (1) or be subject to Subsection (3).

(3) (a) If a content provider intentionally or knowingly violates this section more than 30 days after receiving the notice provided under Subsection (2), the content provider is subject to a civil fine of $2,500 for each separate violation of Subsection (1), up to $10,000 per day.

(b) A proceeding to impose the civil fine under this section may be brought only by the state attorney general and shall be brought in a court of competent jurisdiction.

Amended by Chapter 297, 2008 General Session

76-10-1234. Rulemaking authority.

The Division of Consumer Protection shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish acceptable rating methods to be implemented by a content provider under Subsection 76-10-1233(1).

Amended by Chapter 382, 2008 General Session

76-10-1235. Accessing pornographic or indecent material on school property.

(1) As used in this section:

(a) "Pornographic or indecent material" means any material:

(i) defined as harmful to minors in Section 76-10-1201;

(ii) described as pornographic in Section 76-10-1203; or

(iii) described in Section 76-10-1227.

(b) "School property" means property, including land and improvements, that a school district or charter school owns, leases, or occupies.

(2) Except as provided in Subsection (3), a person is guilty of accessing pornographic or indecent material on school property when the person willfully or knowingly creates, views, or otherwise gains access to pornographic or indecent material while present on school property, under circumstances not amounting to an attempted or actual violation of:

(a) distributing pornographic material as specified in Section 76-10-1204;

(b) inducing acceptance of pornographic material as specified in Section 76-10-1205;

(c) dealing in material harmful to a minor as specified in Section 76-10-1206; or

(d) indecent public displays as specified in Section 76-10-1228.

(3) This section does not apply to school or law enforcement personnel when the access to pornographic or indecent material on school property is limited to:

(a) investigation of a violation of this section; or

(b) enforcement of this section.

(4) Each separate offense under this section is:

(a) a class A misdemeanor if the person is 18 years of age or older; and

(b) a class B misdemeanor if the person is under 18 years of age.

(5) This section does not prohibit disciplinary action for actions that violate this section.

Enacted by Chapter 79, 2007 General Session

76-10-1301. Definitions.

For the purposes of this part:

(1) "Child" is a person younger than 18 years of age.

(2) "House of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.

(3) "Inmate" means a person who engages in prostitution in or through the agency of a house of prostitution.

(4) "Public place" means any place to which the public or any substantial group of the public has access.

(5) "Sexual activity" means acts of masturbation, sexual intercourse, or any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant.

Amended by Chapter 196, 2013 General Session

76-10-1302. Prostitution.

(1) An individual is guilty of prostitution when the individual:

(a) engages in any sexual activity with another individual for a fee;

(b) is an inmate of a house of prostitution; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) (a) Except as provided in Subsection (2)(b) or Section 76-10-1309, prostitution is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Child" is as defined in Section 76-10-1301.

(ii) "Child engaged in prostitution" means a child who engages in conduct described in Subsection (1).

(iii) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee under Subsection 76-10-1313(1)(a) or (c).

(iv) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(v) "Receiving center" is as defined in Section 62A-7-101.

(b) Upon encountering a child engaged in prostitution or sexual solicitation, a law enforcement officer shall:

(i) conduct an investigation;

(ii) refer the child to the division;

(iii) if an arrest is made, bring the child to a receiving center, if available; and

(iv) contact the child's parent or guardian, if practicable.

(c) If a law enforcement officer refers a child to the division under Subsection (3)(b)(ii), the division shall:

(i) check the division's records to verify whether law enforcement referred the child to the division under Subsection (3)(b)(ii) on a prior occasion; and

(ii) provide the information described in Subsection (3)(c)(i) to the law enforcement officer.

(d) If law enforcement has not referred the child to the division under Subsection (3)(b)(ii) on at least one prior occasion, the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services.

(e) If law enforcement has referred the child to the division under Subsection (3)(b)(ii) on at least one prior occasion the child may be subject to delinquency proceedings under Title 62A, Chapter 7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704.

Amended by Chapter 140, 2014 General Session

76-10-1303. Patronizing a prostitute.

(1) A person is guilty of patronizing a prostitute when the person:

(a) pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual activity; or

(b) enters or remains in a house of prostitution for the purpose of engaging in sexual activity.

(2) Patronizing a prostitute is a class B misdemeanor, except as provided in Subsection (3) or (4) and Section 76-10-1309.

(3) A violation of this section that is preceded by a conviction under this section or a conviction under local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.

(4) If the patronizing of a prostitute under Subsection (1)(a) involves a child as the other person, a violation of Subsection (1)(a) is a third degree felony.

Amended by Chapter 30, 2013 General Session
Amended by Chapter 196, 2013 General Session

76-10-1304. Aiding prostitution.

(1) A person is guilty of aiding prostitution if the person:

(a) (i) solicits a person to patronize a prostitute;

(ii) procures or attempts to procure a prostitute for a patron; or

(iii) leases or otherwise permits a place controlled by the actor, alone or in association with another, to be used for prostitution or the promotion of prostitution; or

(iv) provides any service or commits any act that enables another person to commit a violation of this Subsection (1)(a) or facilitates another person's ability to

commit any violation of this Subsection (1)(a); or

(b) solicits, receives, or agrees to receive any benefit for committing any of the acts prohibited by Subsection (1)(a).

(2) Aiding prostitution is a class B misdemeanor. However, a person who is convicted a second time, and on all subsequent convictions, under this section or under a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a class A misdemeanor.

Amended by Chapter 56, 2012 General Session

76-10-1305. Exploiting prostitution.

(1) A person is guilty of exploiting prostitution if he:

(a) procures an inmate for a house of prostitution or place in a house of prostitution for one who would be an inmate;

(b) encourages, induces, or otherwise purposely causes another to become or remain a prostitute;

(c) transports a person into or within this state with a purpose to promote that person's engaging in prostitution or procuring or paying for transportation with that purpose;

(d) not being a child or legal dependent of a prostitute, shares the proceeds of prostitution with a prostitute pursuant to their understanding that he is to share therein; or

(e) owns, controls, manages, supervises, or otherwise keeps, alone or in association with another, a house of prostitution or a prostitution business.

(2) Exploiting prostitution is a felony of the third degree.

Amended by Chapter 1, 2000 General Session

76-10-1306. Aggravated exploitation of prostitution.

(1) A person is guilty of aggravated exploitation if:

(a) in committing an act of exploiting prostitution, as defined in Section 76-10-1305, the person uses any force, threat, or fear against any person;

(b) the person procured, transported, or persuaded or with whom the person shares the proceeds of prostitution is a child or is the spouse of the actor; or

(c) in the course of committing exploitation of prostitution, a violation of Section 76-10-1305, the person commits human trafficking or human smuggling, a violation of Section 76-5-308.

(2) Aggravated exploitation of prostitution is a second degree felony, except under Subsection (3).

(3) Aggravated exploitation of prostitution involving a child is a first degree felony.

Amended by Chapter 196, 2013 General Session

76-10-1307. Local ordinance consistent with code provisions.

An ordinance adopted by a local authority governing prostitution or aiding prostitution shall be consistent with the provisions of this part which govern those matters.

Enacted by Chapter 107, 1991 General Session

76-10-1308. Prosecution.

The following class A misdemeanors may be prosecuted by attorneys of cities and towns, as well as by prosecutors authorized elsewhere in this code to prosecute these alleged violations:

(1) class A misdemeanor violations of Section 76-10-1302; and

(2) class A misdemeanor violations of Section 76-10-1304.

Enacted by Chapter 107, 1991 General Session

76-10-1309. Enhanced penalties -- HIV positive offender.

A person who is convicted of prostitution under Section 76-10-1302, patronizing a prostitute under Section 76-10-1303, or sexual solicitation under Section 76-10-1313 is guilty of a third degree felony if at the time of the offense the person is an HIV positive individual, and the person:

(1) has actual knowledge of the fact; or

(2) has previously been convicted under Section 76-10-1302, 76-10-1303, or 76-10-1313.

Amended by Chapter 70, 2011 General Session

76-10-1310. Definitions.

(1) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive confirmatory test, such as Western blot or other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(2) "HIV positive individual" means a person who has an HIV infection as determined under Subsection (1).

(3) "Local law enforcement agency" means the agency responsible for investigation of the violations of Sections 76-10-1302, 76-10-1303, and 76-10-1313, the filing of charges which may lead to conviction, and the conducting of or obtaining the results of tests for HIV infection.

(4) "Positive" means an indication of the HIV infection as defined in Subsection (1).

(5) "Test" or "testing" means a test or tests for HIV infection in accordance with

standards recommended by the Department of Health.

Amended by Chapter 70, 2011 General Session

76-10-1311. Mandatory testing -- Retention of offender medical file -- Civil liability.

(1) A person who has entered a plea of guilty, a plea of no contest, a plea of guilty and mentally ill, or been found guilty for violation of Section 76-10-1302, 76-10-1303, or 76-10-1313 shall be required to submit to a mandatory test to determine if the offender is an HIV positive individual. The mandatory test shall be required and conducted prior to sentencing.

(2) If the mandatory test has not been conducted prior to sentencing, and the convicted offender is already confined in a county jail or state prison, such person shall be tested while in confinement.

(3) The local law enforcement agency shall cause the blood specimen of the offender as defined in Subsection (1) confined in county jail to be taken and tested.

(4) The Department of Corrections shall cause the blood specimen of the offender defined in Subsection (1) confined in any state prison to be taken and tested.

(5) The local law enforcement agency shall collect and retain in the offender's medical file the following data:

(a) the HIV infection test results;

(b) a copy of the written notice as provided in Section 76-10-1312;

(c) photographic identification; and

(d) fingerprint identification.

(6) The local law enforcement agency shall classify the medical file as a private record pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to Section 63G-2-304.

(7) The person tested shall be responsible for the costs of testing, unless the person is indigent. The costs will then be paid by the local law enforcement agency or the Department of Corrections from the General Fund.

(8) (a) The laboratory performing testing shall report test results to only designated officials in the Department of Corrections, the Department of Health, and the local law enforcement agency submitting the blood specimen.

(b) Each department or agency shall designate those officials by written policy.

(c) Designated officials may release information identifying an offender under Section 76-10-1302, 76-10-1303, or 76-10-1313 who has tested HIV positive as provided under Subsection 63G-2-202(1) and for purposes of prosecution pursuant to Section 76-10-1309.

(9) (a) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health who discloses the HIV test results under this section is not civilly liable except when disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202.

(b) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health who discloses the HIV test results under this section is not civilly or criminally liable, except when disclosure constitutes a knowing

violation of Section 63G-2-801.

(10) When the medical file is released as provided in Section 63G-2-803, the local law enforcement agency, the Department of Corrections, or the Department of Health or its officers or employees are not liable for damages for release of the medical file.

Amended by Chapter 382, 2008 General Session

76-10-1312. Notice to offender of HIV positive test results.

(1) A person convicted under Section 76-10-1302, 76-10-1303, or 76-10-1313 who has tested positive for the HIV infection shall be notified of the test results in person by:

(a) the local law enforcement agency;

(b) the Department of Corrections, for offenders confined in any state prison;

(c) the state Department of Health; or

(d) an authorized representative of any of the agencies listed in this Subsection (1).

(2) The notice under Subsection (1) shall contain the signature of the HIV positive person, indicating the person's receipt of the notice, the name and signature of the person providing the notice, and:

(a) the date of the test;

(b) the positive test results;

(c) the name of the HIV positive individual; and

(d) the following language:

"A person who has been convicted of prostitution under Section 76-10-1302, patronizing a prostitute under Section 76-10-1303, or sexual solicitation under Section 76-10-1313 after being tested and diagnosed as an HIV positive individual and either had actual knowledge that the person is an HIV positive individual or the person has previously been convicted of any of the criminal offenses listed above is guilty of a third degree felony under Section 76-10-1309."

(3) Failure to provide this notice, or to provide the notice in the manner or form prescribed under this section, does not create any civil liability and does not create a defense to any prosecution under this part.

(4) Upon conviction under Section 76-10-1309, and as a condition of probation, the offender shall receive treatment and counseling for HIV infection and drug abuse as provided in Title 62A, Chapter 15, Substance Abuse and Mental Health Act.

Amended by Chapter 70, 2011 General Session

76-10-1313. Sexual solicitation -- Penalty.

(1) A person is guilty of sexual solicitation when the person:

(a) offers or agrees to commit any sexual activity with another person for a fee;

(b) pays or offers or agrees to pay a fee to another person to commit any sexual activity; or

(c) with intent to engage in sexual activity for a fee or to pay another person to

commit any sexual activity for a fee engages in, offers or agrees to engage in, or requests or directs another to engage in any of the following acts:

(i) exposure of a person's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(ii) masturbation;

(iii) touching of a person's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(iv) any act of lewdness.

(2) An intent to engage in sexual activity for a fee may be inferred from a person's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1)(c) under the totality of the existing circumstances.

(3) (a) Sexual solicitation is a class B misdemeanor, except under Subsection (3)(b).

(b) Any person who is convicted a second or subsequent time under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.

(4) If a person commits an act of sexual solicitation and the person solicited is a child, the offense is a third degree felony if the solicitation does not amount to human trafficking or human smuggling, a violation of Section 76-5-308, or aggravated human trafficking or aggravated human smuggling, a violation of Section 76-5-310.

Amended by Chapter 196, 2013 General Session

76-10-1314. Examination of testing procedures and results in legal proceedings.

(1) Employees of the laboratory who conduct laboratory analysis of blood samples for presence of antibody to HIV provided pursuant to a request by a law enforcement agency or the Department of Corrections under Section 76-10-1311, may be examined in a legal proceeding of any kind or character as to:

(a) the nature of the testing;

(b) the validity of the testing;

(c) the results of the test;

(d) the HIV positivity or negativity of the person tested;

(e) the evidentiary chain of custody; and

(f) other factors relevant to the prosecution, subject to the court's ruling.

(2) This section applies only to the criminal investigation and prosecution under Section 76-10-1309 which permits enhanced penalties upon a subsequent conviction for:

(a) prostitution, Section 76-10-1302;

(b) patronizing a prostitute, Section 76-10-1303; or

(c) sexual solicitation, Section 76-10-1313.

Enacted by Chapter 179, 1993 General Session

76-10-1501. Short title.

This act shall be known and may be cited as the "Bus Passenger Safety Act."

Enacted by Chapter 72, 1979 General Session

76-10-1502. Legislative findings.

The legislature finds that the continued orderly operation of bus transportation is beneficial to the commerce of the state and to the convenience of its citizens; that it is essential to the comfort, safety and well-being of bus passengers that orderly conduct be maintained; that the promotion of bus transportation is beneficial to the economy of the state and conservation of energy; and that an increasing number of citizens avail themselves of this mode of transportation.

Enacted by Chapter 72, 1979 General Session

76-10-1503. Definitions.

As used in this act:

(1) "Bus" means any passenger bus or coach or other motor vehicle having a seating capacity of 15 or more passengers operated by a bus company for the purpose of carrying passengers or cargo for hire and includes a transit vehicle, as defined in Section 17B-2a-802, of a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(2) "Bus company" or "company" means any person, group of persons or corporation providing for-hire transportation to passengers or cargo by bus upon the highways in the state, including passengers and cargo in interstate or intrastate travel. These terms also include local public bodies, public transit districts, municipalities, public corporations, boards and commissions established under the laws of the state providing transportation to passengers or cargo by bus upon the highways in the state, whether or not for hire.

(3) "Charter" means a group of persons, pursuant to a common purpose and under a single contract, and at a fixed charge in accordance with a bus company's tariff, which has acquired the exclusive use of a bus to travel together to a specified destination or destinations.

(4) "Passenger" means any person transported or served by a bus company, including persons accompanying or meeting another being transported, any person shipping or receiving cargo and any person purchasing a ticket or receiving a pass.

(5) "Terminal" means a bus station or depot or any other facility operated or leased by or operated on behalf of a bus company and includes a transit facility, as defined in Section 17B-2a-802, of a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act. This term includes a reasonable area immediately adjacent to any designated stop along the route traveled by any bus operated by a bus company and parking lots or areas adjacent to terminals.

Amended by Chapter 329, 2007 General Session

76-10-1504. Bus hijacking -- Assault with intent to commit hijacking -- Use of a dangerous weapon or firearm -- Penalties.

(1) (a) A person is guilty of bus hijacking if the person seizes or exercises control, by force or violence or threat of force or violence, of a bus within the state.

(b) Bus hijacking is a first degree felony.

(2) (a) A person is guilty of assault with the intent to commit bus hijacking if the person intimidates, threatens, or commits assault or battery toward a driver, attendant, guard, or any other person in control of a bus so as to interfere with the performance of duties by the person.

(b) Assault with the intent to commit bus hijacking is a second degree felony.

(3) A person who, in the commission of assault with intent to commit bus hijacking, uses a dangerous weapon, as defined in Section 76-1-601, is guilty of a first degree felony.

(4) (a) A person who boards a bus with a concealed dangerous weapon or firearm upon his person or effects is guilty of a third degree felony.

(b) The prohibition of Subsection (4)(a) does not apply to:

(i) individuals listed in Subsections 76-10-523(1)(a), (b), (c), (d), and (e);

(ii) a person licensed to carry a concealed weapon; or

(iii) persons in possession of weapons or firearms with the consent of the owner of the bus or the owner's agent, or the lessee or bailee of the bus.

Amended by Chapter 310, 2007 General Session

76-10-1505. Discharging firearms and hurling missiles into buses and terminals -- Exception.

(1) Any person who discharges a firearm or hurls a missile at or into any bus or terminal shall be guilty of a third degree felony.

(2) The prohibition of this section does not apply to elected or appointed peace officers or commercial security personnel who discharge firearms or hurl missiles in the course and scope of their employment.

Amended by Chapter 97, 1999 General Session

76-10-1506. Threatening breach of peace -- Disorderly conduct -- Foul language -- Refusing requests -- Use of controlled substance, liquor, or tobacco -- Ejection of passenger.

(1) A person is guilty of a class C misdemeanor, if the person:

(a) threatens a breach of the peace, is disorderly, or uses obscene, profane, or vulgar language on a bus;

(b) is in or upon any bus while unlawfully under the influence of a controlled substance as defined in Section 58-37-2;

(c) fails to obey a reasonable request or order of a bus driver, bus company representative, a nondrinking designee other than the driver as provided in Subsection 32B-4-415(4)(c)(ii), or other person in charge or control of a bus or terminal;

(d) ingests any controlled substance, unless prescribed by a physician or

medical facility, in or upon any bus, or drinks intoxicating liquor in or upon any bus, except a chartered bus as defined and provided in Sections 32B-1-102 and 41-6a-526; or

(e) smokes tobacco or other products in or upon any bus, except a chartered bus.

(2) If any person violates Subsection (1), the driver of the bus or person in charge thereof may stop at the place where the offense is committed or at the next regular or convenient stopping place and remove such person, using only such force as may be necessary to accomplish the removal, and the driver or person in charge may request the assistance of passengers to assist in the removal.

(3) The driver or person in charge may cause the person so removed to be detained and delivered to the proper authorities.

Amended by Chapter 276, 2010 General Session

76-10-1507. Exclusion of persons without bona fide business from terminal -- Firearms and dangerous materials -- Surveillance devices and seizure of offending materials -- Detention of violators -- Private security personnel.

(1) (a) In order to provide for the safety, welfare and comfort of passengers, a bus company may refuse admission to terminals to a person not having bona fide business within the terminal.

(b) The refusal may not be inconsistent or contrary to state or federal laws or regulations, or to an ordinance of the political subdivision in which the terminal is located.

(c) An authorized bus company representative may require a person in a terminal to identify himself and state his business.

(d) Failure to comply with a request under Subsection (1)(c) or to state an acceptable business purpose is grounds for the representative to request that the person depart the terminal.

(e) A person who refuses to comply with a request made under Subsection (1)(d) is guilty of a class C misdemeanor.

(2) (a) A person who carries a concealed dangerous weapon, firearm, or any highly inflammable or hazardous materials or devices into a terminal or aboard a bus is guilty of a third degree felony.

(b) The prohibition of Subsection (2)(a) does not apply to individuals listed in Subsection 76-10-1504(4).

(c) The bus company may employ reasonable means, including mechanical, electronic or x-ray devices to detect the items concealed in baggage or upon the person of a passenger.

(d) Upon the discovery of an item referred to in Subsection (2)(a), the company may obtain possession and retain custody of the item until it is transferred to a peace officer.

(3) (a) An authorized bus company representative may detain within a terminal or bus any person violating the provisions of this section for a reasonable time until law enforcement authorities arrive.

(b) The detention does not constitute unlawful imprisonment and neither the bus company nor the representative is civilly or criminally liable upon grounds of unlawful imprisonment or assault, provided that only reasonable and necessary force is exercised against the detained person.

(4) (a) A bus company may employ or contract for private security personnel.

(b) The personnel may:

(i) detain within a terminal or bus a person violating this section for a reasonable time until law enforcement authorities arrive; and

(ii) use reasonable and necessary force in subduing or detaining the person.

Amended by Chapter 310, 2007 General Session

76-10-1508. Theft of baggage or cargo.

Any person who removes any baggage, cargo or other item transported upon a bus or stored in a terminal without consent of the owner of the property or the bus company, or its duly authorized representative is guilty of theft and shall be punished pursuant to section 76-6-412.

Enacted by Chapter 72, 1979 General Session

76-10-1509. Obstructing operation of bus.

Any person who unlawfully obstructs or impedes by force or violence, or any means of intimidation, the regular operation of a bus is guilty of a class C misdemeanor.

Enacted by Chapter 72, 1979 General Session

76-10-1510. Obstructing operation of bus -- Conspiracy.

Two or more persons who willfully combine or conspire to violate Section 76-10-1509 shall each be guilty of a class C misdemeanor.

Amended by Chapter 229, 2007 General Session

76-10-1511. Cumulative and supplemental nature of act.

The provisions of this act shall be cumulative and supplemental to the provisions of any other law of the state.

Enacted by Chapter 72, 1979 General Session

76-10-1601. Short title.

This act is the "Pattern of Unlawful Activity Act."

Amended by Chapter 238, 1987 General Session

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources Code of Utah, or Section 23-20-4;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by Title 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

(k) a threat of terrorism, Section 76-5-107.3;

(l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;

(m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

(n) human trafficking, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-309, and 76-5-310;

(o) sexual exploitation of a minor, Section 76-5b-201;

(p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

(q) causing a catastrophe, Section 76-6-105;

(r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

(s) burglary of a vehicle, Section 76-6-204;

(t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

(u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

(v) theft, Section 76-6-404;

(w) theft by deception, Section 76-6-405;

(x) theft by extortion, Section 76-6-406;

(y) receiving stolen property, Section 76-6-408;

(z) theft of services, Section 76-6-409;

(aa) forgery, Section 76-6-501;

(bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and 76-6-506.6;

(cc) deceptive business practices, Section 76-6-507;

(dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;

(ee) bribery of a labor official, Section 76-6-509;

(ff) defrauding creditors, Section 76-6-511;

(gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;

(hh) unlawful dealing with property by fiduciary, Section 76-6-513;

(ii) bribery or threat to influence contest, Section 76-6-514;

(jj) making a false credit report, Section 76-6-517;

(kk) criminal simulation, Section 76-6-518;

(ll) criminal usury, Section 76-6-520;

(mm) fraudulent insurance act, Section 76-6-521;

(nn) retail theft, Section 76-6-602;

(oo) computer crimes, Section 76-6-703;

(pp) identity fraud, Section 76-6-1102;

(qq) mortgage fraud, Section 76-6-1203;

(rr) sale of a child, Section 76-7-203;

(ss) bribery to influence official or political actions, Section 76-8-103;

(tt) threats to influence official or political action, Section 76-8-104;

(uu) receiving bribe or bribery by public servant, Section 76-8-105;

(vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;

(ww) official misconduct, Sections 76-8-201 and 76-8-202;

(xx) obstruction of justice, Section 76-8-306;

(yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;

(zz) false or inconsistent material statements, Section 76-8-502;

(aaa) false or inconsistent statements, Section 76-8-503;

(bbb) written false statements, Section 76-8-504;

(ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(fff) tampering with evidence, Section 76-8-510.5;

(ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;

(hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;

(iii) unemployment insurance fraud, Section 76-8-1301;

(jjj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;

(lll) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;

(mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

(nnn) unlawful marking of pistol or revolver, Section 76-10-521;

(ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

(ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

(qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

(rrr) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

(sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(ttt) gambling, Section 76-10-1102;

(uuu) gambling fraud, Section 76-10-1103;

(vvv) gambling promotion, Section 76-10-1104;

(www) possessing a gambling device or record, Section 76-10-1105;

(xxx) confidence game, Section 76-10-1109;

(yyy) distributing pornographic material, Section 76-10-1204;

(zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(bbbb) distribution of pornographic films, Section 76-10-1222;

(cccc) indecent public displays, Section 76-10-1228;

(dddd) prostitution, Section 76-10-1302;

(eeee) aiding prostitution, Section 76-10-1304;

(ffff) exploiting prostitution, Section 76-10-1305;

(gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(hhhh) communications fraud, Section 76-10-1801;

(iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(jjjj) vehicle compartment for contraband, Section 76-10-2801;

(kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

(llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Amended by Chapter 167, 2014 General Session

76-10-1603. Unlawful acts.

(1) It is unlawful for any person who has received any proceeds derived, whether directly or indirectly, from a pattern of unlawful activity in which the person has participated as a principal, to use or invest, directly or indirectly, any part of that income, or the proceeds of the income, or the proceeds derived from the investment or use of those proceeds, in the acquisition of any interest in, or the establishment or operation of, any enterprise.

(2) It is unlawful for any person through a pattern of unlawful activity to acquire or maintain, directly or indirectly, any interest in or control of any enterprise.

(3) It is unlawful for any person employed by or associated with any enterprise to conduct or participate, whether directly or indirectly, in the conduct of that enterprise's affairs through a pattern of unlawful activity.

(4) It is unlawful for any person to conspire to violate any provision of Subsection (1), (2), or (3).

Repealed and Re-enacted by Chapter 238, 1987 General Session

76-10-1603.5. Violation a felony -- Costs -- Fines -- Divestiture -- Restrictions -- Dissolution or reorganization -- Prior restraint.

(1) A person who violates any provision of Section 76-10-1603 is guilty of a second degree felony. In addition to penalties prescribed by law, the court may order the person found guilty of the felony to pay to the state, if the attorney general brought the action, or to the county, if the county attorney or district attorney brought the action, the costs of investigating and prosecuting the offense and the costs of securing the forfeitures provided for in this section.

(2) In lieu of a fine otherwise authorized by law for a violation of Section 76-10-1603, a defendant who derives net proceeds from a conduct prohibited by Section 76-10-1603 may be fined not more than twice the amount of the net proceeds.

(3) Upon conviction for violating any provision of Section 76-10-1603, and in addition to any penalty prescribed by law, the court may do any or all of the following:

(a) order restitution to any victim or rightful owner of property obtained, directly

or indirectly, from:

(i) the conduct constituting the pattern of unlawful activity; or

(ii) any act or conduct constituting the pattern of unlawful activity that is proven as part of the violation of any provision of Section 76-10-1603;

(b) order the person to divest himself of any interest in or any control, direct or indirect, of any enterprise;

(c) impose reasonable restrictions on the future activities or investments of any person, including prohibiting the person from engaging in the same type of endeavor as the enterprise engaged in, to the extent the Utah Constitution and the Constitution of the United States permit; or

(d) order the dissolution or reorganization of any enterprise.

(4) If a violation of Section 76-10-1603 is based on a pattern of unlawful activity consisting of acts or conduct in violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, the court may not enter any order that would amount to a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution Article I, Section 15.

(5) For purposes of this section, the "net proceeds" of an offense means property acquired as a result of the violation minus the direct costs of acquiring the property.

Amended by Chapter 394, 2013 General Session

76-10-1604. Enforcement authority of peace officers.

Notwithstanding any law to the contrary, peace officers in the state of Utah shall have authority to enforce the criminal provisions of this act by initiating investigations, assisting grand juries, obtaining indictments, filing informations, and assisting in the prosecution of criminal cases through the attorney general or county attorneys' offices.

Enacted by Chapter 94, 1981 General Session

76-10-1605. Remedies of person injured by a pattern of unlawful activity -- Double damages -- Costs, including attorney fees -- Arbitration -- Agency -- Burden of proof -- Actions by attorney general or county attorney -- Dismissal -- Statute of limitations -- Authorized orders of district court.

(1) A person injured in his person, business, or property by a person engaged in conduct forbidden by any provision of Section 76-10-1603 may sue in an appropriate district court and recover twice the damages he sustains, regardless of whether:

(a) the injury is separate or distinct from the injury suffered as a result of the acts or conduct constituting the pattern of unlawful conduct alleged as part of the cause of action; or

(b) the conduct has been adjudged criminal by any court of the state or of the United States.

(2) A party who prevails on a cause of action brought under this section recovers the cost of the suit, including reasonable attorney fees.

(3) All actions arising under this section which are grounded in fraud are subject

to arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(4) In all actions under this section, a principal is liable for actual damages for harm caused by an agent acting within the scope of either his employment or apparent authority. A principal is liable for double damages only if the pattern of unlawful activity alleged and proven as part of the cause of action was authorized, solicited, requested, commanded, undertaken, performed, or recklessly tolerated by the board of directors or a high managerial agent acting within the scope of his employment.

(5) In all actions arising under this section, the burden of proof is clear and convincing evidence.

(6) The attorney general, county attorney, or, if within a prosecution district, the district attorney may maintain actions under this section on behalf of the state, the county, or any person injured by a person engaged in conduct forbidden by any provision of Section 76-10-1603, to prevent, restrain, or remedy injury as defined in this section and may recover the damages and costs allowed by this section.

(7) In all actions under this section, the elements of each claim or cause of action shall be stated with particularity against each defendant.

(8) If an action, claim, or counterclaim brought or asserted by a private party under this section is dismissed prior to trial or disposed of on summary judgment, or if it is determined at trial that there is no liability, the prevailing party shall recover from the party who brought the action or asserted the claim or counterclaim the amount of its reasonable expenses incurred because of the defense against the action, claim, or counterclaim, including a reasonable attorney's fee.

(9) An action or proceeding brought under this section shall be commenced within three years after the conduct prohibited by Section 76-10-1603 terminates or the cause of action accrues, whichever is later. This provision supersedes any limitation to the contrary.

(10) (a) In any action brought under this section, the district court has jurisdiction to prevent, restrain, or remedy injury as defined by this section by issuing appropriate orders after making provisions for the rights of innocent persons.

(b) Before liability is determined in any action brought under this section, the district court may:

(i) issue restraining orders and injunctions;

(ii) require satisfactory performance bonds or any other bond it considers appropriate and necessary in connection with any property or any requirement imposed upon a party by the court; and

(iii) enter any other order the court considers necessary and proper.

(c) After a determination of liability, the district court may, in addition to granting the relief allowed in Subsection (1), do any one or all of the following:

(i) order any person to divest himself of any interest in or any control, direct or indirect, of any enterprise;

(ii) impose reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, to the extent the Utah Constitution and the Constitution of the United States permit; or

(iii) order the dissolution or reorganization of any enterprise.

(d) However, if an action is brought to obtain any relief provided by this section, and if the conduct prohibited by Section 76-10-1603 has for its pattern of unlawful activity acts or conduct illegal under Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, the court may not enter any order that would amount to a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States, or Article I, Sec. 15 of the Utah Constitution. The court shall, upon the request of any affected party, and upon the notice to all parties, prior to the issuance of any order provided for in this subsection, and at any later time, hold hearings as necessary to determine whether any materials at issue are obscene or pornographic and to determine if there is probable cause to believe that any act or conduct alleged violates Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222. In making its findings the court shall be guided by the same considerations required of a court making similar findings in criminal cases brought under Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, including, but not limited to, the definitions in Sections 76-10-1201, 76-10-1203, and 76-10-1216, and the exemptions in Section 76-10-1226.

Amended by Chapter 3, 2008 General Session

76-10-1607. Evidentiary value of criminal judgment in civil proceeding.

A final judgment or decree rendered in favor of the state or a county in any criminal proceeding brought by this state or a county shall preclude the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding.

Enacted by Chapter 94, 1981 General Session

76-10-1608. Severability clause.

If any part or application of the Utah Pattern of Unlawful Activity Act is held invalid, the remainder of this part, or its application to other situations or persons, is not affected.

Amended by Chapter 238, 1987 General Session

76-10-1609. Prospective application.

The amendments to the Utah Pattern of Unlawful Activity Act are prospective in nature and apply only to civil causes of action accruing after the effective date of this act. However, crimes committed prior to the effective date of this act may comprise part of a pattern of unlawful activity if at least one of the criminal episodes comprising that pattern occurs after the effective date of this act and the pattern otherwise meets the definition of pattern of unlawful activity as defined in Section 76-10-1602.

Enacted by Chapter 238, 1987 General Session

76-10-1801. Communications fraud -- Elements -- Penalties.

(1) Any person who has devised any scheme or artifice to defraud another or to obtain from another money, property, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions, and who communicates directly or indirectly with any person by any means for the purpose of executing or concealing the scheme or artifice is guilty of:

(a) a class B misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is less than $500;

(b) a class A misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(c) a third degree felony when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000;

(d) a second degree felony when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $5,000; and

(e) a second degree felony when the object or purpose of the scheme or artifice to defraud is the obtaining of sensitive personal identifying information, regardless of the value.

(2) The determination of the degree of any offense under Subsection (1) shall be measured by the total value of all property, money, or things obtained or sought to be obtained by the scheme or artifice described in Subsection (1) except as provided in Subsection (1)(e).

(3) Reliance on the part of any person is not a necessary element of the offense described in Subsection (1).

(4) An intent on the part of the perpetrator of any offense described in Subsection (1) to permanently deprive any person of property, money, or thing of value is not a necessary element of the offense.

(5) Each separate communication made for the purpose of executing or concealing a scheme or artifice described in Subsection (1) is a separate act and offense of communication fraud.

(6) (a) To communicate as described in Subsection (1) means to:

(i) bestow, convey, make known, recount, or impart;

(ii) give by way of information;

(iii) talk over; or

(iv) transmit information.

(b) Means of communication include use of the mail, telephone, telegraph, radio, television, newspaper, computer, and spoken and written communication.

(7) A person may not be convicted under this section unless the pretenses, representations, promises, or material omissions made or omitted were made or omitted intentionally, knowingly, or with a reckless disregard for the truth.

(8) As used in this section, "sensitive personal identifying information" means information regarding an individual's:

(a) Social Security number;

(b) driver's license number or other government issued identification number;

(c) financial account number or credit or debit card number;

(d) password or personal identification number or other identification required to gain access to a financial account or a secure website;

(e) automated or electronic signature;

(f) unique biometric data; or

(g) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.

Amended by Chapter 193, 2010 General Session

76-10-1901. Short title.

This part is known as the Money Laundering and Currency Transaction Reporting Act.

Enacted by Chapter 241, 1989 General Session

76-10-1902. Definitions.

As used in this part:

(1) "Bank" means an agent, agency, or office in this state of a person doing business in any one of the following capacities:

(a) a commercial bank or trust company organized under the laws of this state or of the United States;

(b) a private bank;

(c) a savings and loan association or a building and loan association organized under the laws of the United States;

(d) an insured institution as defined in Section 401 of the National Housing Act;

(e) a savings bank, industrial bank, or other thrift institution;

(f) a credit union organized under the laws of this state or of the United States; or

(g) any other organization chartered under Title 7, Financial Institutions, and subject to the supervisory authority set forth in that title.

(2) "Conducts" includes initiating, concluding, or participating in initiating or concluding a transaction.

(3) (a) "Currency" means the coin and paper money of the United States or of another country that is designated as legal tender, that circulates, and is customarily used and accepted as a medium of exchange in the country of issuance.

(b) "Currency" includes United States silver certificates, United States notes, Federal Reserve notes, and foreign bank notes customarily used and accepted as a medium of exchange in a foreign country.

(4) "Financial institution" means an agent, agency, branch, or office within this state of a person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the following capacities:

(a) a bank, except bank credit card systems;

(b) a broker or dealer in securities;

(c) a currency dealer or exchanger, including a person engaged in the business of check cashing;

(d) an issuer, seller, or redeemer of travelers checks or money orders, except as a selling agent exclusively who does not sell more than $150,000 of the instruments

within any 30-day period;

(e) a licensed transmitter of funds or other person engaged in the business of transmitting funds;

(f) a telegraph company;

(g) a person subject to supervision by a state or federal supervisory authority; or

(h) the United States Postal Service regarding the sale of money orders.

(5) "Financial transaction" means a transaction:

(a) involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects commerce; or

(b) involving the use of a financial institution that is engaged in, or its activities affect commerce in any way or degree.

(6) The phrase "knows that the property involved represents the proceeds of some form of unlawful activity" means that the person knows or it was represented to the person that the property involved represents proceeds from a form of activity, although the person does not necessarily know which form of activity, that constitutes a crime under state or federal law, regardless of whether or not the activity is specified in Subsection (12).

(7) "Monetary instruments" means coins or currency of the United States or of another country, travelers checks, personal checks, bank checks, money orders, and investment securities or negotiable instruments in bearer form or in other form so that title passes upon delivery.

(8) "Person" means an individual, corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, and all other entities cognizable as legal personalities.

(9) "Proceeds" means property acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission and includes property of any kind.

(10) "Property" means anything of value, and includes an interest in property, including a benefit, privilege, land, or right with respect to anything of value, whether real or personal, tangible or intangible.

(11) "Prosecuting agency" means the office of the attorney general or the office of the county attorney, including an attorney on the staff whether acting in a civil or criminal capacity.

(12) "Specified unlawful activity" means an unlawful activity defined as an unlawful activity in Section 76-10-1602, except an illegal act under Title 18, Section 1961(1)(B), (C), and (D), United States Code, and includes activity committed outside this state which, if committed within this state, would be unlawful activity.

(13) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition. With respect to a financial institution, "transaction" includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of a stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

(14) "Transaction in currency" means a transaction involving the physical transfer of currency from one person to another. A transaction that is a transfer of

funds by means of bank check, bank draft, wire transfer, or other written order that does not include the physical transfer of currency is not a transaction in currency under this chapter.

Amended by Chapter 73, 2013 General Session

76-10-1903. Money laundering.

(1) A person commits the offense of money laundering who:

(a) transports, receives, or acquires the property which is in fact proceeds of the specified unlawful activity, knowing that the property involved represents the proceeds of some form of unlawful activity;

(b) makes proceeds of unlawful activity available to another by transaction, transportation, or other means, knowing that the proceeds are intended to be used for the purpose of continuing or furthering the commission of specified unlawful activity;

(c) conducts a transaction knowing the property involved in the transaction represents the proceeds of some form of unlawful activity with the intent:

(i) to promote the unlawful activity;

(ii) to conceal or disguise the nature, location, source, ownership, or control of the property; or

(iii) to avoid a transaction reporting requirement under this chapter or under federal law; or

(d) knowingly accepts or receives property which is represented to be proceeds of unlawful activity.

(2) Under Subsection (1)(d), knowledge that the property represents the proceeds of unlawful activity may be established by proof that a law enforcement officer or an individual acting at the request of a law enforcement officer made the representations and the person's subsequent statements or actions indicate that the person believed those representations to be true.

Amended by Chapter 74, 2009 General Session

76-10-1904. Money laundering -- Penalty.

(1) A person who violates Subsection 76-10-1903(1)(a), (b), or (c) is guilty of a second degree felony.

(2) A person who violates Subsection 76-10-1903(1)(d) is guilty of a third degree felony.

Amended by Chapter 17, 1996 General Session

76-10-1906. Reporting -- Criminal and civil penalties -- Enforcement.

(1) (a) A person engaged in a trade or business, except a financial institution, who receives more than $10,000 as described in Subsection (1)(b) shall complete and file with the State Bureau of Investigation the information required by 26 U.S.C. Sec. 6050I, concerning returns relating to currency received in trade or business.

(b) Subsection (1)(a) applies if the person described in Subsection (1) receives

more than $10,000 in domestic or foreign currency:

(i) in one transaction; or

(ii) through two or more related transactions during one business day.

(c) A person who knowingly and intentionally fails to comply with the reporting requirements of this Subsection (1) is:

(i) on a first conviction, guilty of a class C misdemeanor; and

(ii) on a second or subsequent conviction, guilty of a class A misdemeanor.

(d) A person is guilty of a third degree felony who knowingly and intentionally violates this Subsection (1) and the violation is committed either:

(i) in furtherance of the commission of any other violation of state law; or

(ii) as part of a pattern of illegal activity involving transactions exceeding $100,000 in any 12-month period.

(2) (a) The State Bureau of Investigation and the Office of the Attorney General:

(i) shall enforce compliance with Subsection (1); and

(ii) are custodians of and have access to all information and documents filed under Subsection (1).

(b) The information is confidential, except a law enforcement agency, county attorney, or district attorney, when establishing a clear need for the information for investigative purposes, shall have access to the information and shall maintain the information in a confidential manner except as otherwise provided by the Utah Rules of Criminal Procedure.

Amended by Chapter 268, 2008 General Session

76-10-1907. Separate offenses.

(1) Under this part each individual currency transaction exceeding $10,000 and made in violation of Subsection 76-10-1906(1) or each financial transaction in violation of Section 76-10-1903 or 76-10-1904 involving the movement of funds in excess of $10,000 is a separate punishable offense.

(2) Under this part each failure to file a report as required under Subsection 76-10-1906 (1) is a separate punishable offense.

Enacted by Chapter 241, 1989 General Session

76-10-2001. Definitions.

As used in this part:

(1) "Building," in addition to its commonly-accepted meaning, means any watercraft, aircraft, trailer, sleeping car, or other structure or vehicle adapted for overnight accommodations of persons or for carrying on business and includes:

(a) each separately secured or occupied portion of the building or vehicle; and

(b) each structure appurtenant or connected to the building or vehicle.

(2) "Enter" means:

(a) an intrusion of any part of the body; or

(b) the intrusion of any physical object, sound wave, light ray, electronic signal, or other means of intrusion under the control of the actor.

(3) "Research" means studious and serious inquiry, examination, investigation, or experimentation aimed at the discovery, examination, or accumulation of facts, data, devices, theories, technologies, or applications done for any public, governmental, proprietorial, or teaching purpose.

(4) "Research facility" means any building, or separately secured yard, pad, pond, laboratory, pasture, pen, or corral which is not open to the public, the major use of which is to conduct research, to house research subjects, to store supplies, equipment, samples, specimens, records, data, prototypes, or other property used in or generated from research.

Enacted by Chapter 179, 1989 General Session

76-10-2002. Burglary of a research facility -- Penalties.

(1) A person is guilty of burglary of a research facility if he enters or remains unlawfully in a research facility with the intent to:

(a) obtain unauthorized control over any property, sample, specimen, record, data, test result, or proprietary information in the facility;

(b) alter or eradicate any sample, specimen, record, data, test result, or proprietary information in the facility;

(c) damage, deface, or destroy any property in the facility;

(d) release from confinement or remove any animal or biological vector in the facility regardless of whether or not that animal or vector is dangerous;

(e) commit an assault on any person;

(f) commit any other felony; or

(g) interfere with the personnel or operations of a research facility through any conduct that does not constitute an assault.

(2) A person who violates Subsection (1)(g) is guilty of a class A misdemeanor. A person who violates any other provision in this section is guilty of a felony of the second degree.

Enacted by Chapter 179, 1989 General Session

76-10-2101. Use of recycling bins -- Prohibited items -- Penalties.

(1) As used in this section:

(a) "Recycling" means the process of collecting materials diverted from the waste stream for reuse.

(b) "Recycling bin" means any receptacle made available to the public by a governmental entity or private business for the collection of any source-separated item for recycling purposes.

(2) It is an infraction to place any prohibited item or substance in a recycling bin if the bin is posted with the following information printed legibly in basic English:

(a) a descriptive list of the items that may be deposited in the recycling bin, entitled in boldface capital letters: "ITEMS YOU MAY DEPOSIT IN THIS RECYCLING BIN:";

(b) at the end of the list in Subsection (2)(a), the following statement in boldface

capital letters: "REMOVING FROM THIS BIN ANY ITEM THAT IS LISTED ABOVE AND THAT YOU DID NOT PLACE IN THE CONTAINER IS THE CRIMINAL OFFENSE OF THEFT, PUNISHABLE BY LAW.";

(c) the following statement in boldface capital letters: "DEPOSIT OF ANY OTHER ITEM IN THIS RECYCLING BIN IS AGAINST THE LAW.";

(d) the following statement in boldface capital letters, posted on the recycling collection container in close proximity to the notices required under Subsections (2)(a), (b), and (c): "PLACING ANY ITEM OR SUBSTANCE IN THIS RECYCLING BIN OTHER THAN THOSE ALLOWED IN THE LIST POSTED ON THIS BIN IS AN INFRACTION, PUNISHABLE BY A MAXIMUM FINE OF $750."; and

(e) the name and telephone number of the entity that owns the recycling bin or is responsible for its placement and maintenance.

Amended by Chapter 324, 2010 General Session

76-10-2201. Unlawful body piercing and tattooing of a minor -- Penalties.

(1) As used in this section:

(a) "Body piercing" means the creation of an opening in the body, excluding the ear, for the purpose of inserting jewelry or other decoration.

(b) "Consent of a minor's parent or legal guardian" means the presence of a parent or legal guardian during the performance of body piercing or tattooing upon the minor after the parent or legal guardian has provided:

(i) reasonable proof of personal identity and familial relationship; and

(ii) written permission signed by the parent or legal guardian authorizing the performance of body piercing or tattooing upon the minor.

(c) "Minor" means a person younger than 18 years of age who:

(i) is not married; and

(ii) has not been declared emancipated by a court of law.

(d) "Tattoo" means to fix an indelible mark or figure upon the body by inserting a pigment under the skin or by producing scars.

(2) A person is guilty of unlawful body piercing of a minor if the person performs or offers to perform a body piercing:

(a) upon a minor;

(b) without receiving the consent of the minor's parent or legal guardian; and

(c) for remuneration or in the course of a business or profession.

(3) A person is guilty of unlawful tattooing of a minor if the person performs or offers to perform a tattooing:

(a) upon a minor;

(b) without receiving the consent of the minor's parent or legal guardian; and

(c) for remuneration or in the course of a business or profession.

(4) A person is not guilty of Subsection (2) or (3), if the person:

(a) has no actual knowledge of the minor's age; and

(b) reviews, photocopies, and retains the photocopy of an apparently valid driver license or other government-issued picture identification for the minor that expressly purports that the minor is 18 years of age or older before the person performs

the body piercing or tattooing.

(5) (a) A person who violates Subsection (2) or (3) is guilty of a class B misdemeanor.

(b) The owner or operator of a business in which a violation of Subsection (2) or (3) occurs is subject to a civil penalty of $1,000 for each violation.

Amended by Chapter 329, 2013 General Session

76-10-2202. Leaving a child unattended in a motor vehicle.

(1) As used in this section:

(a) "Child" means a person who is younger than nine years old.

(b) "Enclosed compartment" means any enclosed area of a motor vehicle, including the passenger compartment, regardless of whether a door, window, or hatch is left open.

(c) "Motor vehicle" means an automobile, truck, truck tractor, bus, or any other self-propelled vehicle.

(2) A person who is responsible for a child is guilty of a class C misdemeanor if:

(a) the person intentionally, recklessly, knowingly, or with criminal negligence leaves the child in an enclosed compartment of a motor vehicle;

(b) the motor vehicle is on:

(i) public property; or

(ii) private property that is open to the general public;

(c) the child is not supervised by a person who is at least nine years old; and

(d) the conditions present a risk to the child of:

(i) hyperthermia;

(ii) hypothermia; or

(iii) dehydration.

(3) This section does not apply if the person's conduct that constitutes a violation of this section is subject to a greater penalty under another provision of state law.

(4) This section preempts enforcement of a local law or ordinance that makes it an infraction or a criminal offense to engage in the conduct that constitutes a misdemeanor under this section.

(5) Notwithstanding any provision of state law to the contrary, a conviction under this section may not be used by a state or local government entity as grounds for revoking, refusing to grant, or refusing to renew, a license or permit, including a license or permit relating to the provision of day care or child care.

Enacted by Chapter 204, 2011 General Session

76-10-2301. Contributing to the delinquency of a minor -- Definitions -- Penalties.

(1) For purposes of this part:

(a) "Adult" means a person 18 years of age or older.

(b) "Minor" means a person younger than 18 years of age.

(2) Any adult who commits any act or engages in any conduct which he knows or should know would have the effect of causing or encouraging a minor to commit an act which would be a misdemeanor or infraction criminal violation of any federal or state statute or any county or municipal ordinance if committed by an adult is guilty of a class B misdemeanor.

(3) A violation of Subsection (2) does not require that the minor be found to be delinquent or to have committed a delinquent act.

(4) An offense committed under Subsection (2) is in addition to any completed or inchoate offense which the actor may have committed personally or as a party.

Amended by Chapter 105, 2000 General Session

76-10-2401. Definitions.

As used in this part:

(1) "Building", in addition to its commonly accepted meaning, means any watercraft, aircraft, trailer, sleeping car, or other structure or vehicle adapted for overnight accommodations of persons or for carrying on business and includes:

(a) each separately secured or occupied portion of the building or vehicle; and

(b) each structure appurtenant or connected to the building or vehicle.

(2) "Business" means a retail business dealing in tangible personal property.

(3) "Enter" means:

(a) an intrusion of any part of the body; or

(b) the intrusion of any physical object under the control of the actor.

Amended by Chapter 31, 2002 General Session

76-10-2402. Commercial obstruction -- Penalties.

(1) (a) A person is guilty of a misdemeanor if the person enters or remains unlawfully on the premises of or in a building of any business with the intent to interfere with the employees, customers, personnel, or operations of a business through any conduct that does not constitute an offense listed under Subsection (2).

(b) A violation of Subsection (1)(a) is a class A misdemeanor.

(2) A person is guilty of felony commercial obstruction if the person enters or remains unlawfully on the premises or in a building of any business with the intent to interfere with the employees, customers, personnel, or operations of a business and also with the intent to:

(a) obtain unauthorized control over any merchandise, property, records, data, or proprietary information of the business;

(b) alter, eradicate, or remove any merchandise, records, data, or proprietary information of the business;

(c) damage, deface, or destroy any property on the premises of the business;

(d) commit an assault on any person; or

(e) commit any other felony.

(3) A person who violates any provision in Subsection (2) is guilty of a second degree felony.

(4) This section does not apply to action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.

(5) This section does not apply to a person's exercise of the rights under the First Amendment to the Constitution of the United States or under Article I, Sec. 15 of the Utah Constitution.

Amended by Chapter 334, 2010 General Session

76-10-2501. Unlawful use of a laser pointer -- Definitions -- Penalties.

(1) As used in this section:

(a) "Laser light" means light that is amplified by stimulated emission of radiation.

(b) "Laser pointer" means any portable device that emits a visible beam of laser light that may be directed at a person.

(c) "Law enforcement officer" means an officer under Section 53-13-103.

(2) A person is guilty of unlawful use of a laser pointer if the person directs a beam of laser light from a laser pointer at:

(a) a moving motor vehicle or its occupants; or

(b) one whom the person knows or has reason to know is a law enforcement officer.

(3) It is an affirmative defense to a charge under Subsection (2)(b) that:

(a) the law enforcement officer was:

(i) not in uniform;

(ii) not traveling in a vehicle identified as a law enforcement vehicle; and

(iii) not otherwise engaged in an activity that would give the person reason to know him to be a law enforcement officer; and

(b) the law enforcement officer was not otherwise known by the person to be a law enforcement officer.

(4) Violation of Subsection (2)(a) is an infraction. Violation of Subsection (2)(b) is a class C misdemeanor.

(5) If the violation of this section constitutes an offense subject to a greater penalty under another provision of Title 76, Utah Criminal Code, than is provided under this section, this section does not prohibit the prosecution and sentencing for the offense subject to a greater penalty.

Enacted by Chapter 67, 2001 General Session

76-10-2601. Fencing of shafts and wells.

(1) Any person who has sunk or sinks a shaft or well on the public domain for any purpose shall enclose it with a substantial curb or fence, which shall be at least 4-1/2 feet high.

(2) Any person violating this section is guilty of a class B misdemeanor.

Enacted by Chapter 166, 2002 General Session

76-10-2701. Destructive or injurious materials on parks, recreation areas, waterways, or other public or private lands -- Enforcement officers -- Litter receptacles required.

(1) A person may not throw, deposit, or discard, or permit to be dropped, thrown, deposited, or discarded on any park, recreation area, or other public or private land, or waterway, any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage, paper or paper products, or any other substance which would or could mar or impair the scenic aspect or beauty of the land in the state whether under private, state, county, municipal, or federal ownership without the permission of the owner or person having control or custody of the land.

(2) A person who drops, throws, deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, on any park, recreation area, or other public or private land or waterway any destructive, injurious, or unsightly material shall:

(a) immediately remove the material or cause it to be removed; and

(b) deposit the material in a receptacle designed to receive the material.

(3) A person distributing commercial handbills, leaflets, or other advertising shall take whatever measures are reasonably necessary to keep the material from littering public or private property.

(4) A person removing a wrecked or damaged vehicle from a park, recreation area, or other public or private land shall remove any glass or other injurious substance dropped from the vehicle in the park, recreation area, or other public or private land.

(5) A person in charge of a construction or demolition site shall take reasonable steps to prevent the accumulation of litter at the construction or demolition site.

(6) A law enforcement officer as defined in Section 53-13-103, within the law enforcement officer's jurisdiction:

(a) shall enforce the provisions of this section;

(b) may issue citations to a person who violates any of the provisions of this section; and

(c) may serve and execute all warrants, citations, and other processes issued by any court in enforcing this section.

(7) An operator of a park, campground, trailer park, drive-in restaurant, gasoline service station, shopping center, grocery store parking lot, tavern parking lot, parking lots of industrial firms, marina, boat launching area, boat moorage and fueling station, public and private pier, beach, and bathing area shall maintain sufficient litter receptacles on the premises to accommodate the litter that accumulates.

(8) A municipality within its corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Enacted by Chapter 22, 2008 General Session

76-10-2702. Penalty for littering on a park, recreation area, waterway, or other public or private land.

(1) A person who violates any of the provisions of Section 76-10-2701 is guilty of a class C misdemeanor and shall be fined not less than $100 for each violation.

(2) The sentencing judge may require that the offender devote at least four

hours in cleaning up:

(a) litter caused by the offender; and

(b) existing litter from a safe area designated by the sentencing judge.

Enacted by Chapter 22, 2008 General Session

76-10-2801. Vehicle compartment for contraband -- Penalties.

(1) As used in this section:

(a) (i) "Compartment" means any box, container, space, or enclosure:

(A) that is intended or designed to conceal, hide, or otherwise prevent the discovery of contraband; and

(B) that is within a vehicle or attached to a vehicle.

(ii) "Compartment" includes:

(A) false, altered, or modified fuel tanks;

(B) original factory equipment of a vehicle that is modified, altered, or changed to accommodate or contain contraband; and

(C) a box, container, space, or enclosure that is fabricated, made, created from, or added to the existing structure of a vehicle.

(b) (i) "Contraband" means any property, item, or substance which is unlawful to produce or possess under state or federal law.

(ii) "Contraband" includes any cash or monetary instrument that is the proceeds of an unlawful activity under Subsection 76-10-1602(4).

(c) "Motor vehicle" has the same meaning as in Section 41-6a-102.

(d) "Semitrailer" has the same meaning as in Section 41-6a-102.

(e) "Trailer" has the same meaning as in Section 41-1a-102.

(f) "Vehicle" means a motor vehicle, a trailer, and a semitrailer.

(2) It is a class A misdemeanor for a person to knowingly possess, use, or control a vehicle which has a compartment with the intent to store, conceal, or transport contraband in the compartment.

(3) It is a third degree felony for a person to facilitate the storage, concealment, or transportation of contraband by:

(a) designing, constructing, building, altering, or fabricating a compartment for a vehicle;

(b) installing or creating a compartment in a vehicle; or

(c) attaching a compartment to a vehicle.

(4) The trier of fact may infer that a person intended to store, conceal, or transport contraband if the person possesses, uses, or controls a vehicle that has a compartment, and the compartment contains:

(a) contraband; or

(b) evidence of prior storage, concealment, or transportation of contraband.

Enacted by Chapter 298, 2008 General Session

76-10-2901. Transporting or harboring aliens -- Definition -- Penalty.

(1) As used in this part:

(a) Except as provided in Subsection (1)(b), "alien" means an individual who is illegally present in the United States.

(b) On or after the program start date, as defined in Section 63G-12-102, "alien" does not include an individual who holds a valid permit, as defined in Section 63G-12-102.

(2) It is unlawful for a person to:

(a) transport, move, or attempt to transport into this state or within the state an alien for commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien is in the United States in violation of federal law, in furtherance of the illegal presence of the alien in the United States;

(b) knowingly, with the intent to violate federal immigration law, conceal, harbor, or shelter from detection an alien in a place within this state, including a building or means of transportation for commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien is in the United States in violation of federal law;

(c) encourage or induce an alien to come to, enter, or reside in this state, knowing or in reckless disregard of the fact that the alien's coming to, entry, or residence is or will be in violation of law; or

(d) engage in a conspiracy, for commercial advantage or private financial gain, to commit any of the offenses listed in this Subsection (2).

(3) (a) A person who violates Subsection (2)(a), (c), or (d) is guilty of a third degree felony.

(b) A person who violates Subsection (2)(b) is guilty of a class A misdemeanor.

(4) Nothing in this part prohibits or restricts the provision of:

(a) a state or local public benefit described in 8 U.S.C. Sec. 1621(b); or

(b) charitable or humanitarian assistance, including medical care, housing, counseling, food, victim assistance, religious services and sacraments, and transportation to and from a location where the assistance is provided, by a charitable, educational, or religious organization or its employees, agents, or volunteers, using private funds.

(5) (a) It is not a violation of this part for a religious denomination or organization or an agent, officer, or member of a religious denomination or organization to encourage, invite, call, allow, or enable an alien to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses.

(b) Subsection (5)(a) applies only to an alien who has been a member of the religious denomination or organization for at least one year.

(6) An individual's participation in Title 63G, Chapter 14, Utah Pilot Sponsored Resident Immigrant Program Act, either as a sponsor or resident alien does not constitute encouraging or inducing an alien to come to, enter, or reside in this state in violation of Subsection (2)(c).

Amended by Chapter 18, 2011 General Session
Amended by Chapter 20, 2011 General Session, (Coordination Clause)

Amended by Chapter 21, 2011 General Session

76-10-3001. Fraudulent practices to affect market price.

Every person who willfully makes or publishes any false statement, spreads any false rumor, or employs any other false or fraudulent means or device, with intent to affect the market price of any kind of property, is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3002. Unfair discrimination in competitive practices.

Every person engaged in the production, manufacture, or distribution of any commodity in general use who intentionally for the purpose of destroying the competition of any regular, established dealer in such commodity, or to prevent the competition of any person who in good faith intends and attempts to become a dealer, discriminates between different sections, communities, or cities of this state by selling the commodity at a lower rate in one section, community, or city, or any portion thereof, than the person charges for the commodity in another section, community, or city, after equalizing the distance from the point of production, manufacture, or distribution and freight rates therefrom, is guilty of unfair discrimination.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3003. Corporation guilty of unfair discrimination -- Action by attorney general.

If complaint is made to the attorney general that any corporation is guilty of unfair discrimination as defined by the preceding section, he shall investigate the complaint, and for that purpose, he may subpoena witnesses, administer oaths, take testimony, and require the production of books or other documents, and, if in his opinion sufficient grounds exist therefor, he may prosecute an action in the name of the state in the proper court to annul the charter or revoke the license of the corporation, as the case may be, and to permanently enjoin the corporation from doing business in this state, and, if in the action the court finds that the corporation is guilty of unfair discrimination as defined by the preceding section, the court shall annul the charter or revoke the license of the corporation and may permanently enjoin it from transacting business in this state.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3004. Penalty for violation.

Any person, firm, or corporation violating any of the provisions of this part shall be fined not less than $500 nor more than $4,000 for each offense.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3005. Unfair discrimination by buyer of milk, cream or butterfat --

Classification of offense.

Any person doing business in this state and engaged in the business of buying milk, cream, or butterfat for the purpose of sale or storage, who, for the purpose of creating a monopoly or destroying the business of a competitor, discriminates between different sections, communities, localities, cities, or towns of this state by purchasing the commodity or commodities at a higher price or rate in one section, community, location, city, or town than is paid for the same commodity by the person in another section, community, locality, city, or town, after making due allowance for the difference, if any, in the grade or quality, and in the actual cost of transportation from the point of purchase to the point of manufacture, sale, or storage, is guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful; and any person, firm, company, association, or corporation, or any officer, agent, receiver, or member of such firm, company, association, or corporation, found guilty of unfair discrimination as herein defined shall be guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3101. Title.

This part is known as the "Utah Antitrust Act."

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3102. Legislative findings -- Purpose of act.

The Legislature finds and determines that competition is fundamental to the free market system and that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic, political and social institutions.

The purpose of this act is, therefore, to encourage free and open competition in the interest of the general welfare and economy of this state by prohibiting monopolistic and unfair trade practices, combinations and conspiracies in restraint of trade or commerce and by providing adequate penalties for the enforcement of its provisions.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3103. Definitions.

As used in this act:

(1) "Attempt to monopolize" means action taken without a legitimate business purpose and with a specific intent of destroying competition or controlling prices to substantially lessen competition, or creating a monopoly, where there is a dangerous probability of creating a monopoly.

(2) "Commodity" includes any product of the soil, any article of merchandise or trade or commerce, and any other kind of real or personal property.

(3) "Manufacturer" means the producer or originator of any commodity or service.

(4) "Service" includes any activity that is performed in whole or in part for the purpose of financial gain including, but not limited to, personal service, professional service, rental, leasing or licensing for use.

(5) "Trade or commerce" includes all economic activity involving, or relating to, any commodity, service, or business activity, including the cost of exchange or transportation.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3104. Illegal anticompetitive activities.

(1) Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is declared to be illegal.

(2) It shall be unlawful for any person to monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of trade or commerce.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3105. Exempt activities.

(1) This act may not be construed to prohibit:

(a) the activities of any public utility to the extent that those activities are subject to regulation by the public service commission, the state or federal department of transportation, the federal energy regulatory commission, the federal communications commission, the interstate commerce commission, or successor agencies;

(b) the activities of any insurer, insurance producer, independent insurance adjuster, or rating organization including, but not limited to, making or participating in joint underwriting or reinsurance arrangements, to the extent that those activities are subject to regulation by the commissioner of insurance;

(c) the activities of securities dealers, issuers, or agents, to the extent that those activities are subject to regulation under the laws of either this state or the United States;

(d) the activities of any state or national banking institution, to the extent that the activities are regulated or supervised by state government officers or agencies under the banking laws of this state or by federal government officers or agencies under the banking laws of the United States;

(e) the activities of any state or federal savings and loan association to the extent that those activities are regulated or supervised by state government officers or agencies under the banking laws of this state or federal government officers or agencies under the banking laws of the United States;

(f) the activities of a political subdivision to the extent authorized or directed by state law, consistent with the state action doctrine of federal antitrust law; or

(g) the activities of an emergency medical service provider licensed under Title 26, Chapter 8a, Utah Emergency Medical Services System Act, to the extent that those activities are regulated by state government officers or agencies under that act.

(2) (a) The labor of a human being is not a commodity or article of commerce.

(b) Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of these organizations from lawfully carrying out their legitimate objects; nor may these organizations or membership in them be held to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

(3) (a) As used in this section, an entity is also a municipality if the entity was formed under Title 11, Chapter 13, Interlocal Cooperation Act, prior to January 1, 1981, and the entity is:

(i) a project entity as defined in Section 11-13-103;

(ii) an electric interlocal entity as defined in Section 11-13-103; or

(iii) an energy services interlocal entity as defined in Section 11-13-103.

(b) The activities of the entities under Subsection (3)(a) are authorized or directed by state law.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3106. Attorney General's powers -- Investigations -- Institution of actions -- Cooperation.

(1) The attorney general may investigate suspected violations of this act and institute appropriate actions regarding those suspected violations as provided in this act.

(2) Any violations of this act which come to the attention of any state government officer or agency shall be reported to the attorney general. All state government officers and agencies shall cooperate with, and assist in, any prosecution for violation of this act.

(3) The attorney general may proceed under any antitrust laws in the state or federal courts on behalf of this state, any of its political subdivisions or agencies, or as parens patriae on behalf of natural persons in this state.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3107. Civil antitrust investigations -- Demand for production of documents and responses to written interrogatories -- Oral examination -- Judicial order for compliance -- Confidentiality -- Subpoenas precluded.

(1) When the attorney general has reasonable cause to believe that any person may be in possession, custody, or control of any information relevant to a civil antitrust investigation, he may, prior to the commencement of a civil action thereon, issue and cause to be served upon that person a written civil investigative demand requesting that person to:

(a) produce the documentary material for inspection, copying, or reproduction by the state where the documents are located or produced;

(b) give oral testimony under oath, concerning the subject of the investigation;

(c) respond to written interrogatories; or

(d) furnish any combination of these.

(2) (a) Each demand shall state:

(i) The nature of the activities under investigation, constituting the alleged antitrust violation, which may result in a violation of this act and the applicable provision of law;

(ii) that the recipient is entitled to counsel;

(iii) that the documents, materials, or testimony in response to the demand may be used in a civil or criminal proceeding;

(iv) that if the recipient does not comply with the demand the Office of the Attorney General may compel compliance by appearance, upon reasonable notice to the recipient, before the district court in the judicial district wherein the recipient resides or does business and only upon a showing before that district court that the requirements of Subsection (7) have been met;

(v) that the recipient has the right at any time before the return date of the demand, or within 30 days, whichever period is shorter, to seek a court order determining the validity of the demand; and

(vi) that at any time during the proceeding the person may assert any applicable privilege.

(b) If the demand is for production of documentary material, it shall also:

(i) describe the documentary material to be produced with sufficient definiteness and certainty as to permit the material to be fairly identified;

(ii) prescribe return dates that provide a reasonable period of time within which the material demanded may be assembled and made available for inspection and reproduction; and

(iii) identify the individual at the attorney general's office to whom the material shall be made available.

(c) If the demand is for the giving of oral testimony, it shall also:

(i) prescribe the date, time, and place at which oral testimony shall be commenced;

(ii) state that a member of the attorney general's office staff shall conduct the examination; and

(iii) state that the recording or the transcript of such examination shall be submitted to and maintained by the Office of the Attorney General.

(d) If the demand is for responses to written interrogatories, it shall also:

(i) state that each interrogatory shall be answered separately and fully in writing and under oath, unless the person objects to the interrogatory, in which event the reasons for objection shall be stated in lieu of an answer;

(ii) state that the answers are to be signed by the person making them, and the objections are to be signed by the attorney making them;

(iii) identify by name and address the individual at the Office of the Attorney General on whom answers and objections provided under this Subsection (2)(d) are to be served; and

(iv) prescribe the date on or before which these answers and objections are to be served on the identified individual.

(3) The civil investigative demand may be served upon any person who is subject to the jurisdiction of any Utah court and shall be served upon the person in the

manner provided for service of a subpoena.

(4) (a) The documents submitted in response to a demand served under this section shall be accompanied by an affidavit, in the form the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person having knowledge of the facts and circumstances relating to the production.

(b) The affidavit shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has in good faith been produced and made available to the Office of the Attorney General.

(c) The affidavit shall identify any demanded documents that are not produced and state the reason why each document was not produced.

(5) (a) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths or affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. If the testimony is taken stenographically, it shall be transcribed and the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the Office of the Attorney General.

(b) When taking oral testimony, all persons other than personnel from the attorney general's office, the witness, counsel for the witness, and the officer before whom the testimony is to be taken shall be excluded from the place where the examination is held.

(c) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the county where the person resides or transacts business or in any other place agreed upon by the attorney general and the person.

(d) When testimony is fully transcribed, the transcript shall be certified by the officer before whom the testimony was taken and submitted to the witness for examination and signing, in accordance with Rule 30(e) of the Utah Rules of Civil Procedure. A copy of the deposition shall be furnished free of charge to each witness upon his request.

(e) Any change in testimony recorded by nonstenographic means shall be made in the manner provided in Rule 30 of the Utah Rules of Civil Procedure for changing deposition testimony recorded by nonstenographic means.

(f) Any person compelled to appear under a demand for oral testimony under this section may be accompanied, represented, and advised by counsel. Counsel may advise the person, in confidence, either upon the request of the person or upon counsel's own initiative, with respect to any question asked of the person. The person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that the person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. If the person

refuses to answer any question, the attorney general may petition the district court for an order compelling the person to answer the question.

(g) If any person compelled to appear under a demand for oral testimony or other information pursuant to this section refuses to answer any questions or produce information on grounds of the privilege against self-incrimination, the testimony of that person may be compelled as in criminal cases.

(h) Any person appearing for oral examination pursuant to a demand served under this section is entitled to the same fees and mileage which are paid to witnesses in the district courts of the state of Utah. Witness fees and expenses shall be tendered and paid as in any civil action.

(6) The providing of any testimony, documents, or objects in response to a civil investigative demand issued pursuant to the provisions of this act shall be considered part of an official proceeding as defined in Section 76-8-501.

(7) (a) If a person fails to comply with the demand served upon him under this section, the attorney general may file in the district court of the county in which the person resides, is found, or does business, a petition for an order compelling compliance with the demand. Notice of hearing of the petition and a copy of the petition shall be served upon the person, who may appear in opposition to the petition. If the court finds that the demand is proper, that there is reasonable cause to believe there has been a violation of this act, and that the information sought or document or object demanded is relevant to the violation, it shall order the person to comply with the demand, subject to modifications the court may prescribe.

(b) (i) At any time before the return date specified in a demand or within 30 days after the demand has been served, whichever period is shorter, the person who has been served may file a petition for an order modifying or setting aside the demand. This petition shall be filed in the district court in the county of the person's residence, principal office, or place of business, or in the district court in Salt Lake County. The petition shall specify each ground upon which the petitioner relies in seeking the relief sought. The petition may be based upon any failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the petitioner. The petitioner shall serve notice of hearing of the petition and a copy of the petition upon the attorney general. The attorney general may submit an answer to the petition within 30 days after receipt of the petition.

(ii) After hearing on the petition described in Subsection (7)(b)(i), and for good cause shown, the court may make any further order in the proceedings that justice requires to protect the person from unreasonable annoyance, embarrassment, oppression, burden, or expense. At any hearing pursuant to this section it is the attorney general's burden to establish that the demand is proper, that there is reasonable cause to believe that there has been a violation of this act, and that the information sought or document or object demanded is relevant to the violation.

(8) (a) Any procedure, testimony taken, or material produced under this section shall be kept confidential by the attorney general unless confidentiality is waived in writing by the person who has testified, or produced documents or objects.

(b) Notwithstanding any other provision of this section, the attorney general may disclose testimony or documents obtained under this section, without either the consent

of the person from whom it was received or the person being investigated, to:

(i) any grand jury; and

(ii) officers and employees of federal or state law enforcement agencies, provided the person from whom the information, documents, or objects were obtained is notified 20 days prior to disclosure, and the federal or state law enforcement agency certifies that the information will be:

(A) maintained in confidence, as required by Subsection (8)(a); and

(B) used only for official law enforcement purposes.

(9) Use of a civil investigative demand under this action precludes the invocation by the attorney general of Section 77-22-2.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3108. Attorney general may bring action for injunctive relief, damages, or civil penalty.

(1) The attorney general may bring an action for appropriate injunctive relief, and for damages or a civil penalty in the name of the state, any of its political subdivisions or agencies, or as parens patriae on behalf of natural persons in this state, for a violation of this act. Actions may be brought under this section regardless of whether the plaintiff dealt directly or indirectly with the defendant. This remedy is an additional remedy to any other remedies provided by law. It may not diminish or offset any other remedy.

(2) Any individual who violates this act is subject to a civil penalty of not more than $100,000 for each violation. Any person, other than an individual, who violates this act is subject to a civil penalty of not more than $500,000 for each violation.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3109. Person may bring action for injunctive relief and damages -- Treble damages -- Recovery of actual damages or civil penalty by state or political subdivisions -- Immunity of political subdivisions from damages, costs, or attorney fees.

(1) (a) A person who is a citizen of this state or a resident of this state and who is injured or is threatened with injury in his business or property by a violation of the Utah Antitrust Act may bring an action for injunctive relief and damages, regardless of whether the person dealt directly or indirectly with the defendant. This remedy is in addition to any other remedies provided by law. It may not diminish or offset any other remedy.

(b) Subject to the provisions of Subsections (3), (4), and (5), the court shall award three times the amount of damages sustained, plus the cost of suit and a reasonable attorney fees, in addition to granting any appropriate temporary, preliminary, or permanent injunctive relief.

(2) (a) If the court determines that a judgment in the amount of three times the damages awarded plus attorney fees and costs will directly cause the insolvency of the defendant, the court shall reduce the amount of judgment to the highest sum that would

not cause the defendant's insolvency.

(b) The court may not reduce a judgment to an amount less than the amount of damages sustained plus the costs of suit and reasonable attorney fees.

(3) The state or any of its political subdivisions may recover the actual damages it sustains, or the civil penalty provided by the Utah Antitrust Act, in addition to injunctive relief, costs of suit, and reasonable attorney fees.

(4) No damages, costs, or attorney fees may be recovered under this section:

(a) from any political subdivision;

(b) from the official or employee of any political subdivision acting in an official capacity; or

(c) against any person based on any official action directed by a political subdivision or its official or employee acting in an official capacity.

(5) Subsection (4) does not apply to cases filed before April 27, 1987, unless the defendant establishes and the court determines that in light of all the circumstances, including the posture of litigation and the availability of alternative relief, it would be inequitable not to apply Subsection (4) to a pending case.

(6) When a defendant has been sued in one or more actions by both direct and indirect purchasers, whether in state court or federal court, a defendant shall be entitled to prove as a partial or complete defense to a claim for damages that the damages incurred by the plaintiff or plaintiffs have been passed on to others who are entitled to recover so as to avoid duplication of recovery of damages. In an action by indirect purchasers, any damages or settlement amounts paid to direct purchasers for the same alleged antitrust violations shall constitute a defense in the amount paid on a claim by indirect purchasers under this chapter so as to avoid duplication of recovery of damages.

(7) It shall be presumed, in the absence of proof to the contrary, that the injured persons who dealt directly with the defendant incurred at least 1/3 of the damages, and shall, therefore, recover at least 1/3 of the awarded damages. It shall also be presumed, in the absence of proof to the contrary, that the injured persons who dealt indirectly with the defendant incurred at least 1/3 of the damages, and shall, therefore, recover at least 1/3 of the awarded damages. The final 1/3 of the damages shall be awarded by the court to those injured persons determined by the court as most likely to have absorbed the damages.

(8) There is a presumption, in the absence of proof to the contrary and subject to Subsection (7), that each level in a product's or service's distribution chain passed on any and all increments in its cost due to an increase in the cost of an ingredient or a component product or service that was caused by a violation of this chapter. This amount will be presumed, in the absence of evidence to the contrary, to be equal to the change in the cost, in dollars and cents, of the ingredient, component product, or service to its first purchaser.

(9) The attorney general shall be notified by the plaintiff about the filing of any class action involving antitrust violations that includes plaintiffs from this state. The attorney general shall receive a copy of each filing from each plaintiff. The attorney general may, in his or her discretion, intervene or file amicus briefs in the case, and may be heard on the question of the fairness or appropriateness of any proposed

settlement agreement.

(10) If, in a class action or parens patriae action filed under this chapter, including the settlement of any action, it is not feasible to return any part of the recovery to the injured plaintiffs, the court shall order the residual funds be applied to benefit the specific class of injured plaintiffs, to improve antitrust enforcement generally by depositing the residual funds into the Attorney General Litigation Fund created by Section 76-10-3114, or both.

(11) In any action brought under this chapter, the court shall approve all attorney fees and arrangements for the payment of attorney fees, including contingency fee agreements.

Renumbered and Amended by Chapter 187, 2013 General Session
Amended by Chapter 278, 2013 General Session

76-10-3112. Fine for violation -- Certain vertical agreements excluded -- Nolo contendere.

(1) (a) Any person who violates Section 76-10-3104 by price fixing, bid rigging, agreeing among competitors to divide customers or territories, or by engaging in a group boycott with specific intent of eliminating competition is guilty of a third degree felony and, notwithstanding Sections 76-3-301 and 76-3-302, is subject to:

(i) if an individual, a fine not to exceed $100,000; or

(ii) if by a person other than an individual, a fine not to exceed $500,000.

(b) Subsection (1)(a) may not be construed to include vertical agreements between a manufacturer, its distributors, or their subdistributors dividing customers and territories solely involving the manufacturer's commodity or service where the manufacturer distributes its commodity or service both directly and through distributors or subdistributors in competition with itself.

(2) A defendant may plead nolo contendere to a charge brought under this title but only with the consent of the court. The court may accept the plea only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

Renumbered and Amended by Chapter 187, 2013 General Session
Amended by Chapter 285, 2013 General Session

76-10-3113. Conviction as prima facie evidence in action for injunctive relief or damages.

In any action brought by the state, a final judgment or decree determining that a person has criminally violated this act, other than a judgment entered pursuant to a nolo contendere plea or a decree entered prior to the taking of any testimony, shall be prima facie evidence against that person in any action brought pursuant to Section 76-10-3109, as to all matters with respect to which the judgment or decree would be an estoppel between the parties thereto.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3114. Attorney General Litigation Fund.

(1) (a) There is created an expendable special revenue fund known as the Attorney General Litigation Fund for the purpose of providing funds to pay for any costs and expenses incurred by the state attorney general in relation to actions under state or federal antitrust, criminal laws, or civil proceedings under Title 13, Chapter 44, Protection of Personal Information Act. These funds are in addition to other funds as may be appropriated by the Legislature to the attorney general for the administration and enforcement of the laws of this state.

(b) At the close of any fiscal year, any balance in the fund in excess of $2,000,000 shall be transferred to the General Fund.

(c) The attorney general may expend money from the Attorney General Litigation Fund for the purposes in Subsection (1)(a).

(2) (a) All money received by the state or its agencies by reason of any judgment, settlement, or compromise as the result of any action commenced, investigated, or prosecuted by the attorney general, after payment of any fines, restitution, payments, costs, or fees allocated by the court, shall be deposited in the Attorney General Litigation Fund, except as provided in Subsection (2)(b).

(b) (i) Any expenses advanced by the attorney general in any of the actions under Subsection (1)(a) shall be credited to the Attorney General Litigation Fund.

(ii) Any money recovered by the attorney general on behalf of any private person or public body other than the state shall be paid to those persons or bodies from funds remaining after payment of expenses under Subsection (2)(b)(i).

(3) The Division of Finance shall transfer any money remaining in the Antitrust Revolving Account on July 1, 2002, to the Attorney General Litigation Fund created in Subsection (1).

Renumbered and Amended by Chapter 187, 2013 General Session
Amended by Chapter 400, 2013 General Session

76-10-3115. Attorney general to advocate competition.

The attorney general shall have the authority and responsibility to advocate the policy of competition before all political subdivisions of this state and all public agencies whose actions may affect the interests of persons in this state.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3116. Venue of actions by state -- Transfer.

Any action brought by the state pursuant to this act shall be brought in any county wherein the defendant resides or does business, or at the option of the defendant, such action shall be transferred, upon motion made within 30 days after commencement of the action, to Salt Lake County.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3117. Statute of limitations.

(1) Any action brought by the attorney general pursuant to this act is barred if it is not commenced within four years after the cause of action accrues.

(2) Any other action pursuant to this act is barred if it is not commenced within four years after the cause of action accrues, or within one year after the conclusion of an action brought by the state pursuant to this act based in whole or in part on any matter complained of in the subsequent action, whichever is the latter.

Renumbered and Amended by Chapter 187, 2013 General Session

76-10-3118. Interpretation of act.

The Legislature intends that the courts, in construing this act, will be guided by interpretations given by the federal courts to comparable federal antitrust statutes and by other state courts to comparable state antitrust statutes.

Renumbered and Amended by Chapter 187, 2013 General Session